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ACT No. XXXIV. OF 1860.

General.

1. Certain fines, penalties, &c., imposed since 10th May, 1857, to be deemed to have been duly imposed. Proviso.
2. Officers indemnified for certain acts done since 10th May, 1857.

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied and acts done by them during the late disturbances.

Whereas fines and penalties have been imposed and levied by Officers of Government in respect of acts committed during the late disturbances; and whereas assessments and contributions have been made and collected for the re-construction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all Officers of Government and other persons acting under the authority of Officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May, 1857, in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts; It is enacted as follows:

Certain fines, penalties, &c., imposed since 10th May, 1857, to be deemed to have been duly imposed.

I. All fines, penalties, assessments, and contributions imposed since the 10th day of May, 1857, in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any Officer of Government, or by any person acting under the authority of an Officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government, or shall have been or shall be ratified by the Executive Government; and all Officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof: Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

Proviso.

Officers indemnified for certain acts done since 10th May, 1857.

II. All acts done since the 10th day of May, 1857, in connection with the late disturbances by Officers of Government or by persons acting under their authority or otherwise in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

ACT No. XLV. OF 1860.*

General.

THE INDIAN PENAL CODE.

CONTENTS.

CHAPTER.		Section.
I.	Introduction	1
II.	General Explanations	6
III.	Of Punishments	53
IV.	General Exceptions	76
V.	Of Abetment	107
VI.	Of Offences against the State	121
VII.	Of Offences relating to the Army and Navy ...	131
VIII.	Of Offences against the Public Tranquillity ...	141
IX.	Of Offences by or relating to Public Servants ...	161
X.	Of Contempts of the Lawful Authority of Public Servants	172
XI.	Of False Evidence and Offences against Public Justice	191
XII.	Of Offences relating to coin and Government Stamps	230
XIII.	Of Offences relating to Weights and Measures ...	264
XIV.	Of Offences affecting the Public Health, Safety, Convenience, Decency, and Morals	268
XV.	Of Offences relating to Religion	295
XVI.	Of Offences affecting the Human Body	299
XVII.	Of Offences against Property	378
XVIII.	Of Offences relating to Documents and to Trade or Property-marks	463
XIX.	Of the Criminal Breach of Contracts of Service ...	490
XX.	Of Offences relating to Marriage	493
XXI.	Of Defamation	499
XXII.	Of Criminal Intimidation, Insult, and Annoyance ...	503
XXIII.	Of Attempts to commit Offences	511

ARRANGEMENT OF SECTIONS.

CHAPTER I.

INTRODUCTION.

Title and extent of operation of the Code 1
Punishment of Offences committed within the Territories vested in Her Majesty by the 21 and 22 Vict., c. 106 ... 2
Punishment of Offences committed beyond, but which by law may be tried within, the Territories 3
Punishment of Offences committed by a servant of the Queen within a Foreign Allied State 4
Certain laws not to be affected by this Act 5

CHAPTER II.

GENERAL EXPLANATIONS.

Definitions in the Code to be understood subject to exceptions .. 6
Expression once explained is used in the same sense throughout the Code... 7

* Extended to the Nicobar Islands by G. O. No. 4918, see *Gazette of India*, 30th October, 1869, p. 411.

The date of operation of this Act was altered by Act VI. of 1861, from 31st May, 1861, to 1st January, 1862.

GENERAL EXPLANATIONS.—*(Continued.)*

	Section.
Gender	8
Number	9
"Man"	10
"Woman"	*ib.*
"Person"	11
"Public"	12
"Queen"	13
"Servant of the Queen"	14
"British India"	15
"Government of India"	16
"Government"	17
"Presidency"	18
"Judge"	19
"Court of Justice"	20
"Public Servant"	21
"Moveable property"	22
"Wrongful gain"	23
"Wrongful loss"	*ib.*
"Wrongful gain" includes wrongful retention of property ...	*ib.*
"Wrongful loss" includes the being wrongfully kept out of property	*ib.*
"Dishonestly"	24
"Fraudulently"	25
"Reason to believe"	26
Property in possession of wife, clerk, or servant	27
"Counterfeit"	28
"Document"	29
"Valuable Security"	30
"A Will"	31
Words referring to acts include illegal omissions	32
"Act"	33
"Omission"	*ib.*
Each of several persons liable for an act done by all in like manner as if done by him alone	34
When such an act is criminal by reason of its being done with a criminal knowledge or intention	35
Effect caused partly by act and partly by omission ...	36
Co-operation by doing one of several acts constituting an offence	37
Several persons engaged in the commission of a criminal act may be guilty of different offences	38
"Voluntarily"	39
"Offence"	40
"Special Law"	41
"Local Law"	42
"Illegal"	43
"Legally bound to do"	*ib.*
"Injury"	44
"Life"	45
"Death"	46
"Animal"	47
"Vessel"	48
"Year"	49
"Section"	50
"Oath"	51
"Good faith"	52

CHAPTER III.

OF PUNISHMENTS. *Section.*

Punishments 53
Commutation of sentence of death 54
Commutation of sentence of transportation for life ... 55
Europeans and Americans to be sentenced to penal servitude instead of transportation 56
Fractions of terms of punishment 57
Offenders sentenced to transportation how to be dealt with until transportation 58
In what cases transportation may be awarded instead of imprisonment 59
Sentence may (in certain cases of imprisonment) be wholly or partly rigorous or simple 60
Sentence of forfeiture of property 61
Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment 62
Amount of fine 63
Sentence of imprisonment in default or payment of fine ... 64
Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine 65
Description of imprisonment for such default 66
Term of imprisonment for default in payment of fine, when the offence is punishable with fine only 67
Such imprisonment to terminate upon payment of the fine ... 68
Termination of such imprisonment upon payment of proportional part of fine 69
Fine may be levied within 6 years, or at any time during the term of imprisonment 70
Death of offender not to discharge his property from liability ... *ib.*
Limit of punishment of offence which is made up of several offences 71
Punishment of a person found guilty of one of several offences, the judgment stating that it is doubtful of which ... 72
Solitary confinement 73
Limit of solitary confinement 74
Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment 75

CHAPTER IV.

GENERAL EXCEPTIONS.

Act done by a person bound, or by mistake of fact believing himself bound by law 76
Act of Judge when acting judicially 77
Act done pursuant to the judgment or order of a Court of Justice 78
Act done by a person justified, or by mistake of fact believing himself justified by law 79
Accident in the doing of a lawful act 80
Act likely to cause harm, but done without a criminal intent, and to prevent other harm 81
Act of a child under 7 years of age 82
Act of a child above 7 and under 12 years of age, who has not sufficient maturity of understanding 83
Act of a person of unsound mind 84

GENERAL EXCEPTIONS.—(*Continued.*) *Section.*
Act of a person incapable of judgment by reason of intoxication caused against his will 85
Offence requiring a particular intent or knowledge committed by one who is intoxicated 86
Act not intended and not known to be likely to cause death or grievous hurt, done by consent 87
Act not intended to cause death, done by consent in good faith for the benefit of a person 88
Act done in good faith, for the benefit of a child or person of unsound mind, by or by consent of guardian 89
Consent known to be given under fear or misconception ... 90
Consent of a child or person of unsound mind ... ... *ib.*
Acts which are offences independently of harm caused to the person consenting, are not within the exceptions in Sections 87, 88, and 89 91
Act done in good faith for the benefit of a person without consent 92
Communication made in good faith 93
Act to which a person is compelled by threats 94
Act causing slight harm 95
Nothing done in private defence is an offence 96
Right of private defence of the body and of property ... 97
Right of private defence against the act of a person of unsound mind, &c. 98
Acts against which there is no right of private defence ... 99
Extent to which the right may be exercised ... ... *ib.*
When the right of private defence of the body extends to causing death 100
When such right extends to causing any harm other than death 101
Commencement and continuance of the right of the private defence of the body 102
When the right of private defence of the body extends to causing death 103
When such right extends to causing any harm other than death 104
Commencement and continuance of the right of private defence of property 105
Right of private defence against a deadly assault when there is risk of harm to an innocent person... 106

CHAPTER V.

OF ABETMENT.

Abetment of a thing 107
Abettor 108
Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment 109
Punishment of abetment if the person abetted does the act with a different intention from that of the abettor 110
Liability of abettor when one act is abetted and a different act is done—... 111
Proviso ... ... *ib.*
Abettor when liable to cumulative punishment for act abetted and for act done 112
Liability of abettor for an effect caused by the act abetted different from that intended by the abettor 113
Abettor present when offence is the commission of an offence, deemed to have committed 114

OF ABETMENT.—*(Continued.)* *Section*

Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment 115
If an act which causes harm be done in consequence of the abetment... ... ... *ib.*
Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment .. 116
If the abettor or the person abetted be a public servant whose duty it is to prevent the offence ... ... *ib.*
Abetting the commission of an offence by the public, or by more than ten persons 117
Concealing a design to commit an offence punishable with death, or transportation for life 118
If the offence be committed ... ... *ib.*
If the offence be not committed ... ... *ib.*
A public servant concealing a design to commit an offence which it is his duty to prevent 119
If the offence be committed ... ... *ib.*
If the offence be punishable with death, &c. ... ... *ib.*
If the offence be not committed ... ... *ib.*
Concealing a design to commit an offence punishable with imprisonment 120
If the offence be committed ... ... *ib.*
If not committed ... ... *ib.*

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

Waging or attempting to wage war, or abetting the waging of war, against the Queen 121
Collecting arms, &c., with the intention of waging war against the Queen 122
Concealing with intent to facilitate a design to wage war ... 123
Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power .. 124
Waging war against any Asiatic Power in alliance with the Queen 155
Committing depredation on the territories of any power at peace with the Queen 126
Receiving property taken by war or depredation mentioned in Sections 125 and 126 127
Public servant voluntarily allowing Prisoner of State or War in his custody to escape 128
Public servant negligently suffering Prisoner of State or War in his custody to escape 129
Aiding escape of, rescuing, or harbouring such prisoner ... 130

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty 131
Abetment of mutiny, if mutiny is committed in consequence thereof 132
Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office 133
Abetment of such assault, if the assault is committed ... 134
Abetment of the desertion of a soldier or sailor 135

OF OFFENCES RELATING TO THE ARMY AND NAVY.—(*Contd.*) *Section.*
Harbouring a deserter 136
Deserter concealed on board merchant vessel through negligence of master... 137
Abetment of act of insubordination by a soldier or sailor ... 138
Persons subject to Articles of War not punishable under this Code 139
Wearing the dress of a soldier 140

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.
Unlawful assembly 141
Being a member of an unlawful assembly 142
Punishment 143
Joining an unlawful assembly armed with any deadly weapon ... 144
Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse 145
Force used by one member in prosecution of common object ... 146
Punishment for rioting 147
Rioting, armed with a deadly weapon 148
Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object ... 149
Hiring, or conniving at hiring, of person to join an unlawful assembly 150
Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse ... 151
Assaulting or obstructing public servant when suppressing riot, &c. 152
Wantonly giving provocation with intent to cause riot ... 153
If rioting be committed ... ... *ib.*
If not committed ... ... *ib.*
Owner or occupier of land on which an unlawful assembly is held 154
Liability of person for whose benefit a riot is committed ... 155
Liability of agent of owner or occupier for whose benefit a riot is committed 156
Harbouring persons hired for an unlawful assembly ... 157
Being hired to take part in an unlawful assembly or riot ... 158
Or to go armed ... ... *ib.*
Affray 159
Punishment for committing affray 160

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.
Public servant taking a gratification other than legal remuneration, in respect of an official act 161
Taking a gratification, in order, by corrupt or illegal means, to influence a public servant 162
Taking a gratification for the exercise of personal influence with a public servant 163
Punishment for abetment by public servant of the offences above defined 164
Public servant obtaining any valuable thing without consideration, from person concerned in any proceeding or business transacted by such public servant 165
Public servant disobeying a direction of the law, with intent to cause injury to any person 166

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.—(*Contd.*) *Section*
Public servant framing an incorrect document with intent to cause injury 167
Public servant unlawfully engaging in trade 168
Public servant unlawfully buying or bidding for property ... 169
Personating a public servant 170
Wearing garb or carrying token used by public servant with fraudulent intent 171

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.
Absconding to avoid service of summons or other proceeding from a public servant 172
Preventing service of summons or other proceeding, or preventing publication thereof 173
Non-attendance in obedience to an order from a public servant... 174
Omission to produce a document to a public servant by a person legally bound to produce such document 175
Omission to give notice or information to a public servant by a person legally bound to give notice or information ... 176
Furnishing false information 177
Refusing oath when duly required to take oath by a public servant 178
Refusing to answer a public servant authorized to question ... 179
Refusing to sign statement 180
False statement on oath to public servant or person authorized to administer an oath 181
False information, with intent to cause a public servant to use his lawful power to the injury of another person ... 182
Resistance to the taking of property by the lawful authority of a public servant 183
Obstructing sale of property offered for sale by authority of a public servant 184
Illegal purchase or bid for property offered for sale by authority of a public servant 185
Obstructing public servant in discharge of his public functions 186
Omission to assist public servant when bound by law to give assistance 187
Disobedience to an order duly promulgated by a public servant 188
Threat of injury to a public servant 189
Threat of injury to induce any person to refrain from applying for protection to a public servant 190

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.
Giving false evidence 191
Fabricating false evidence 192
Punishment for false evidence 193
Giving or fabricating false evidence with intent to procure conviction of a capital offence 194
If innocent person be thereby convicted and executed ... *ib.*
Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment 195
Using evidence known to be false 196
Issuing or signing a false certificate 197

BENGAL SECRETARIAT

OF FALSE EVIDENCE, &c.—(*Continued.*) *Section.*

Using as a true certificate one known to be false in a material point 198
False statement made in any declaration which is by law receivable as evidence 199
Using as true any such declaration known to be false ... 200
Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender... 201
If a capital offence ... ... *ib.*
If punishable with transportation ... ... *ib.*
If punishable with less than ten years' imprisonment ... *ib.*
Intentional omission to give information of an offence, by a person bound to inform 202
Giving false information respecting an offence committed ... 203
Destruction of document to prevent its production as evidence 204
False personation for the purpose of any act or proceeding in a suit 205
Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree ... 206
Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree 207
Fraudulently suffering a decree for a sum not due ... 208
Dishonestly making false claim in a Court of Justice ... 209
Fraudulently obtaining a decree for a sum not due ... 210
False charge of offence made with intent to injure ... 211
Harbouring an offender 212
If a capital offence ... ... *ib.*
If punishable with transportation for life, or with imprisonment... *ib.*
Taking gift, &c., to screen an offender from punishment ... 213
If a capital offence ... ... *ib.*
If punishable with transportation for life, or with imprisonment *ib.*
Offering gift or restoration of property in consideration of screening offender 214
If a capital offence ... ... *ib.*
If punishable with transportation for life, or with imprisonment 214
Taking gift to help to recover stolen property, &c. ... 215
Harbouring an offender who has escaped from custody, or whose apprehension has been ordered 216
If a capital offence ... ... *ib.*
If punishable with transportation for life, or with imprisonment ... ... *ib.*
Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture ... 217
Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture 218
Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law ... 219
Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law ... 220
Intentional omission to apprehend on the part of a public servant bound by law to apprehend 221
Punishment ... ... *ib.*
Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice 222

OF FALSE EVIDENCE, &c.,—(*Continued.*) *Section.*
Punishment 222
Escape from confinement negligently suffered by a public servant 223
Resistance or obstruction by a person to his lawful apprehension 224
Resistance or obstruction to the lawful apprehension of another person 225
Punishment ... ... *ib.*
Unlawful return from transportation 226
Violation of condition of remission of punishment ... 227
Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding 228
Personation of a juror or assessor 229

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.
Coin 230
Queen's coin ... ... *ib.*
Counterfeiting coin 231
Counterfeiting the Queen's coin 232
Making or selling instrument for counterfeiting coin ... 233
Making or selling instrument for counterfeiting Queen's coin ... 234
Possession of instrument or material for the purpose of using the same for counterfeiting coin 235
Abetting in India the counterfeiting out of India of coin ... 236
Import or export of counterfeit coin 237
Import or export of counterfeits of the Queen's coin ... 238
Delivery to another of coin, possessed with the knowledge that it is counterfeit 239
Delivery of Queen's coin, possessed with the knowledge that it is counterfeit 240
Delivery to another of coin as genuine, which when first possessed, the deliverer did not know to be counterfeit ... 241
Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof 242
Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof 243
Person employed in a mint causing coin to be of a different weight or composition from that fixed by law... ... 244
Unlawfully taking from a mint any coining instrument ... 245
Fraudulently or dishonestly diminishing the weight or altering the composition of any coin 246
Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin 247
Altering appearance of any coin with intent that it shall pass as a coin of a different description 248
Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description 249
Delivery to another of coin possessed with the knowledge that it is altered 250
Delivery of Queen's coin possessed with the knowledge that it is altered 251
Possession of altered coin by a person who knew it to be altered when he became possessed thereof 252
Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof 253

OF OFFENCES RELATING TO COIN AND GOVT. STAMPS.—(*Contd.*) *Section.*
Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered ... 254
Counterfeiting a Government stamp 255
Having possession of an instrument or material for the purpose of counterfeiting a Government stamp 256
Making or selling instrument for the purpose of counterfeiting a Government stamp 257
Sale of counterfeit Government stamp 258
Having possession of a counterfeit Government stamp ... 259
Using as genuine a Government stamp known to be counterfeit 260
Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government 261
Using a Government stamp known to have been before used ... 262
Erasure of mark denoting that stamp has been used ... 263

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.
Fraudulent use of false instrument for weighing 264
Fraudulent use of false weight or measure 265
Being in possession of false weights or measures 266
Making or selling false weights or measures 267

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.
Public nuisance 268
Negligent act likely to spread infection of any disease dangerous to life 269
Malignant act likely to spread infection of any disease dangerous to life 270
Disobedience to a quarantine rule 271
Adulteration of food or drink which is intended for sale ... 272
Sale of noxious food or drink 273
Adulteration of drugs 274
Sale of adulterated drugs 275
Sale of any drugs as a different drug or preparation ... 276
Fouling the water of a public spring or reservoir 277
Making atmosphere noxious to health 278
Rash driving or riding on a public way 279
Rash navigation of a vessel 280
Exhibition of a false light, mark, or buoy 281
Conveying person by water for hire in a vessel over-loaded or unsafe 282
Danger or obstruction in a public way or navigation ... 283
Negligent conduct with respect to any poisonous substance ... 284
Negligent conduct with respect to any fire or combustible matter 285
Negligent conduct with respect to any explosive substance ... 286
Negligent conduct with respect to any machinery in the possession or under the charge of the offender 287
Negligence with respect to pulling down or repairing buildings... 288
Negligence with respect to any animal 289
Punishment for public nuisance 290
Continuance of nuisance after injunction to discontinue ... 291
Sale, &c., of obscene books 292
Having in possession obscene book for sale or exhibition .. 293
Obscene songs 294

OF KIDNAPPING, &c.—*(Continued.)* *Section.*
Kidnapping or abducting a woman to compel her marriage, &c. 366
Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c. 367
Wrongfully concealing or keeping in confinement a kidnapped person 368
Kidnapping or abducting child under ten years with intent to steal moveable property from the person of such child ... 369
Buying or disposing of any person as a slave 370
Habitual dealing in slaves 371
Selling of any minor for purposes of prostitution, &c. ... 372
Buying of any minor for purposes of prostitution ... 373
Unlawful compulsory labor 374
OF RAPE.
Rape 375
Punishment for rape 376
OF UNNATURAL OFFENCES.
Unnatural offences 377

CHAPTER XVII.

Of Offences against Property.

OF THEFT.
Theft 378
Punishment for theft 379
Theft in dwelling-house, &c. 380
Theft by clerk or servant of property in possession of master ... 381
Theft after preparation made for causing death or hurt, in order to the committing of the theft 382
OF EXTORTION.
Extortion 383
Punishment for extortion 384
Putting person in fear of injury in order to commit extortion ... 385
Extortion by putting a person in fear of death or grievous hurt... 386
Putting person in fear of death or of grievous hurt, in order to commit extortion 387
Extortion by threat of accusation of an offence punishable with death or transportation, &c. 388
Putting person in fear of accusation of offence, in order to commit extortion 389
OF ROBBERY AND DACOITY.
Robbery 390
When theft is robbery ... ... *ib.*
When extortion is robbery ... ... *ib.*
Dacoity 391
Punishment for robbery 392
Attempt to commit robbery 393
Voluntarily causing hurt in committing robbery 394
Punishment for dacoity 395
Dacoity with murder 396
Robbery or dacoity, with attempt to cause death or grievous hurt 397
Attempt to commit robbery or dacoity when armed with deadly weapon 398
Making preparation to commit dacoity 399
Punishment for belonging to a gang of dacoits 400
Punishment for belonging to a wandering gang of thieves ... 401
Assembling for purpose of committing dacoity ... 402

OF CRIMINAL MISAPPROPRIATION OF PROPERTY. *Section.*
Dishonest misappropriation of property 403
Dishonest misappropriation of property possessed by a deceased person at the time of his death 404
OF CRIMINAL BREACH OF TRUST.
Criminal breach of trust 405
Punishment for criminal breach of trust 406
Criminal breach of trust by carrier, &c. 407
Criminal breach of trust by a clerk or servant 408
Criminal breach of trust by public servant, or by banker, merchant, or agent 409
OF THE RECEIVING OF STOLEN PROPERTY.
Stolen property 410
Dishonestly receiving stolen property 411
Dishonestly receiving property stolen in the commission of dacoity 412
Habitually dealing in stolen property 413
Assisting in concealment of stolen property 414
OF CHEATING.
Cheating 415
Cheating by personation 416
Punishment for cheating 417
Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect 418
Punishment for cheating by personation 419
Cheating and dishonestly inducing a delivery of property ... 420
OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.
Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors 421
Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender 422
Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration 423
Dishonest or fraudulent removal or concealment of property ... 424
OF MISCHIEF.
Mischief 425
Punishment for committing mischief 426
Committing mischief and thereby causing damage to the amount of 50 Rupees 427
Mischief by killing or maiming any animal of the value of 10 Rupees 428
Mischief by killing or maiming cattle, &c., or any animal of the value of 50 Rupees 429
Mischief by injury to works of irrigation or by wrongfully diverting water 430
Mischief by injury to public road, bridge, or river 431
Mischief by causing inundation or obstruction to public drainage attended with damage 432
Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights 433
Mischief by destroying or moving, &c., a land-mark fixed by public authority 434
Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees 435
Mischief by fire or explosive substance with intent to destroy a house, &c. 436

OF MISCHIEF.—*(Continued.)* *Section.*

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden 437
Punishment for the mischief described in the last Section when committed by fire or any explosive substance 438
Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c. 439
Mischief committed after preparation made for causing death or hurt 440

OF CRIMINAL TRESPASS.

Criminal trespass 441
House-trespass 442
Lurking house-trespass 443
Lurking house-trespass by night 444
House-breaking 445
House breaking by night 446
Punishment for criminal trespass 447
Punishment for house-trespass 448
House-trespass in order to the commission of an offence punishable with death 449
House-trespass in order to the commission of an offence punishable with transportation for life 450
House-trespass in order to the commission of an offence punishable with imprisonment 451
House-trespass after preparation made for causing hurt to any person 452
Punishment for lurking house-trespass or house-breaking ... 453
Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment ... 454
Lurking house-trespass or house-breaking after preparation made for causing hurt to any person 455
Punishment for lurking house-trespass or house-breaking by night 456
Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment 457
Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person 458
Grievous hurt caused whilst committing lurking house-trespass or house-breaking 459
All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number 460
Dishonestly breaking open any closed receptacle containing or supposed to contain property 461
Punishment for same offence when committed by person entrusted with custody 462

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

Forgery 463
Making a false document 464
Punishment for forgery 465
Forgery of a record of a Court of Justice, or of a public Register of Births, &c. 466
Forgery of a valuable security or Will 467
Forgery for the purpose of cheating 468
Forgery for the purpose of harming the reputation of any person 469

OF OFFENCES RELATING TO DOCUMENTS, &c.—(*Continued.*) Section.
"A forged document" 470
Using as genuine a forged document 471
Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under Section 467 ... 472
Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise 473
Having possession of a valuable security or Will known to be forged with intent to use it as genuine 474
Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material 475
Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material 476
Fraudulent cancellation, destruction, &c, of a Will ... 477
OF TRADE AND PROPERTY-MARKS.
Trade-mark 478
Property-mark 479
Using a false trade-mark 480
Using a false property-mark 481
Punishment for using a false trade or property-mark with intent to deceive or injure any person 482
Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury 483
Caunterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property 484
Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark 485
Knowingly selling goods marked with a counterfeit property or trade-mark 486
Fraudulently making a false mark upon any package or receptacle containing goods 487
Punishment for making use of any such false mark ... 488
Defacing any property-mark with intent to cause injury ... 489

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.
Breach of contract of service during a voyage or journey ... 490
Breach of contract to attend on and supply the wants of helpless persons 491
Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense 492

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.
Cohabitation caused by a man deceitfully inducing a belief of lawful marriage 493
Marrying again during the life-time of husband or wife ... 494
Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted ... 495
Marriage ceremony gone through with fraudulent intent without lawful marrriage 496
Adultery 497
Enticing or taking away or detaining with a criminal intent a married woman 498

CHAPTER XXI.

OF DEFAMATION. *Sections.*

Defamation 499
Imputation of any truth which the public good requires to be made or published ... ... *ib.*
Public conduct of public servants ... ... *ib.*
Conduct of any person touching any public question ... *ib.*
Publication of reports of proceedings of Courts of Justice ... *ib.*
Merits of a case decided in a Court of Justice, or conduct of witnesses and others concerned therein ... ... *ib.*
Merits of a public performance ... ... *ib.*
Censure passed in good faith by a person having lawful authority over another ... ... *ib.*
Accusation preferred in good faith to a duly authorized person... 499
Imputation made in good faith by a person for the protection of his interests ... ... *ib.*
Caution intended for the good of the person to whom it is conveyed or for the public good ... ... *ib.*
Punishment for defamation 500
Printing or engraving matter known to be defamatory ... 501
Sale of printed or engraved substance containing defamatory matter 502

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

Criminal intimidation 503
Intentional insult with intent to provoke a breach of the peace 504
Circulating false report with intent to cause mutiny or an offence against the State, &c. 505
Punishment for criminal intimidation 506
If threat be to cause death or grievous hurt, &c. ... ... *ib.*
Criminal intimidation by an anonymous communication ... 507
Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure 508
Word or gesture intended to insult the modesty of a woman ... 509
Misconduct in public by a drunken person 510

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

Punishment for attempting to commit offences punishable with transportation or imprisonment 511

THE INDIAN PENAL CODE.

CHAPTER I.

Whereas it is expedient to provide a General Penal Code for British India; It is enacted as follows:

Title and extent of operation of the Code.

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May, 1861, throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22, Victoria, chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May, 1861.

Punishment of offences committed within the said Territories.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed beyond, but which by law may be tried within, the Territories.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May, 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Punishment of offences committed by a servant of the Queen within a Foreign allied State.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4, William IV, Chapter 85, or of any Act of Parliament passed after that Statute in anywise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty or of any special or local law.

Certain laws not to be affected by this Act.

CHAPTER II.

General Explanations.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Definitions in the Code to be understood subject to exceptions.

Illustrations.

(*a.*) The Sections in this Code which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b.*) A, a Police Officer, without warrant, apprehends Z, who has committe dmurder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code, is used in every part of this Code, in conformity with the explanation.

Expression once explained is used in the same sense throughout the Code.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Gender.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Man." "Woman."

11. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

12. The word "public" includes any class of the public or any community.

"Public."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India or any Government.

"Servant of the Queen."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22, Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of the Prince of Wales' Island, Singapore, and Malacca.

"British India."

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

"Government of India."

17. The word "Government" denotes the person or persons authorized by law to administer Executive Goverment in any part of British India.

"Government."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Presidency."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

"Judge."

Illustrations.

(*a.*) A Collector exercising jurisdiction in a suit under Act X. of 1859, is a Judge.

(*b.*) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(*c.*) A Member of a Punchayet which has power, under Regulation VII., 1816, of the Madras Code, to try and determine suits, is a Judge.

(*d.*) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice."

Illustration.

A Punchayet acting under Regulation VII., 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

"Public Servant."

First.—Every covenanted servant of the Queen;

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India, or any Government;

Third.—Every Judge;

Fourth.—Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every Juryman, assessor, or member of a Punchayet assisting a Court of Justice or public servant;

Sixth.—Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every Officer of Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience;

Ninth.—Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every Officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

Tenth.—Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the

situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of preperty.

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fradulently."

25. A person is said to do a thing fradulently if he does that thing with intent to defraud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

Property in possession of wife, clerk, or servant.

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily, or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

"Counterfeit."

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

"Document."

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means, or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for or may be used in a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Check upon a Banker is a document.

A power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.,

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section although the same may not be actually expressed.

Illustration.

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage is that the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

"Valuable security."

30. The words "valuable security"* denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act." "Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone.

34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Whenever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

* A copy of a lease is not a valuable security.—Reg. *v.* Khushal Hiramen and another, 4, B. R., C. C., p. 20.

Illustrations.

(*a*.) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(*b*.) A and B are joint Jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(*c*.) A, a Jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet if he knew that he was likely to cause death, he has caused death voluntarily.

"Offence."

40. The word "offence" denotes a thing made punishable by this Code.

"Special Law."

41. A "special law" is a law applicable to a particular subject.

"Local Law."

42. A "local law" is a law applicable only to a particular part of British India.

"Illegal." "Legally bound to do."

43. The word "illegal" is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

"Life."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.

"Animal."

47. The word "animal" denotes any living creature other than a human being.

"Vessel."

48. The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property.

"Year."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

"Section."

50. The word "section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

"Oath."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

"Good faith."

52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

CHAPTER III.

Of Punishments.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are—

Firstly.—Death.
Secondly.—Transportation.
Thirdly.—Penal servitude.
Fourthly.—Imprisonment, which is of two descriptions, namely:
(1.) Rigorous, that is, with hard labour.
(2.) Simple.
Fifthly.—Forfeiture of property.
Sixthly.—Fine.

Commutation of sentence of death.

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence or transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Europeans and Americans to be sentenced to penal servitude instead of transportation.

56. Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV. of 1855.

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

Offenders sentenced to transportation how to be dealt with until transportation.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

In what cases transportation may be awarded instead of imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

Sentence may be in certain cases of imprisonment, wholly or partly rigorous or simple.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence of forfeiture of property.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported, or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

Amount of fine.

*63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

* The provisions of this and the seven next Sections apply to all fines imposed under the authority of any Act passed after the 3rd January, 1868. See Act I., 1868, Section 5.

Sentence of imprisonment in default of payment of fine.

64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied, that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration..

A is sentenced to a fine of one hundred Rupees, and to four months' imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within 6 years, or at any time during the term of imprisonment.

Death of offender not to discharge his property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence which is made up of several offences.

* 71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

(*a.*) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(*b.*) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of a person found guilty of one or several offences, the judgment stating that it is doubtful of which.

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

Solitary confinement.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say :—

A time not exceeding one month, if the term of imprisonment shall not exceed six months.

A time not exceeding two months, if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months, if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Punishment of persons convicted, after previous conviction, of an offence punishable with three years imprisonment.

†75. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with the imprisonment of either description for a term of three years or upwards, shall be subject for

* This Section applies to the case of a person charged with house-breaking under Section 457, and theft committed on the same occasion under Section 380.—Reg. *v.* Arjoon, 1, B. R., p. 87.

† Sentence under this Section was annulled where the prisoner had been previously convicted thirteen times prior to the passing of the Indian Penal Code, of offences now punishable under Chapter XVII.—Reg. *v.* Kushya, 4, B. R., C. C., p. 11.

every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same: Provided that he shall not in any case be liable to imprisonment for a term exceeding ten years.

CHAPTER IV.

General Exceptions.

Act done by a person bound, or by a mistake of fact believing himself bound, by law.

76. Nothing is an offence which is done by a person who is, or who by reason of mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be bound by law to do it.

Illustrations.

(*a*.) A, a soldier, fires, on a mob by the order of his superior Officer, in conformity with the commands of the law. A has committed no offence.

(*b*.) A, an Officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of a Court of Justice.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in the doing of a lawful act.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm, but done without a criminal intent and to prevent other harm.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case, whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(*a.*) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with 20 or 30 passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C, with only 2 passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(*b.*) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under 7 years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above 7 and under 12 years of age, who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law: Provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person: Provided—

Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death, or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent;

or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting are not within the exceptions in Sections 87, 88, and 89.

91. The exceptions in Sections 87, 88, and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not the offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

Provisoes.

Provided—

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a.*) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(*b.*) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit., A's ball gives Z a mortal wound. A has committed no offence.

(*c.*) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(*d.*) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89, and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99 to defend—

First.—His own body, and the body of any other person against any offence affecting the human body.

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

98. When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have, if the act were that offence.

Illustrations.

(*a.*) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b.*) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under color of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under color of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault.—

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault—.

Thirdly.—An assault with the intention of committing rape.—

Fourthly.—An assault with the intention of gratifying unnatural lust.—

Fifthly.—An assault with the intention of kidnapping or abducting—.

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery.

Secondly.—House-breaking by night.

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for custody of property.

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death, or hurt, or wrongful restraint, or as long as the fear of instant death, or of instant hurt, or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal tresspass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues, as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence, if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a.*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b.*) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a*.) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if commited by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b*.) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(*c*.) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d*.) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name, C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 161.

(*b.*) A instigates B to give false evidence. B in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c.*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act is abetted and a different act is done.

Proviso.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it: provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

(*a.*) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(*b.*) A instigates B to burn Z's house. B sets fire to the house, and, at the same time, commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(*c.*) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner, and to the same extent, as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor, present when offence is committed.

114. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment. If an act which causes harm be done in consequence of the abetment.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine, and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

If the abettor of the person abetted be a public servant, whose duty it is to prevent the offence.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.

(*b.*) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.

(*c*) A, a police officer whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(*d.*) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting the commission of an offence by the public, or by more than 10 persons.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this Section.

Concealing a design to commit an offence punishable with death or transportation for life.

If the offence be committed.

If the offence be not committed.

118. Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years: and in either case shall also be liable to fine.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death, &c.

119. Whoever, being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be commited, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which

may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

If the offence be not committed.

Illustration.

A, an officer of Police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provisions of this Section.

120. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

CHAPTER VI.

Of Offences against the State.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Waging, or attempting to wage war, or abetting the waging of war against the Queen

Illustrations.

(*a.*) A joins an insurrection against the Queen. A has committed the offence defined in this Section.

(*b.*) A in India abets the insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Collecting arms, &c., with the intention of waging war against the Queen.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Concealing with intent to facilitate it, a design to wage war.

Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor or Member of Council, assaults, or wrongfully restrains, or attempts wrongfully to restrain or overawes by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Waging war against any Asiatic power in alliance with the Queen.

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.

Committing depredation on the territories of any power at peace with the Queen.

126. Whoever commits depredation, or makes preparation to commit depredation on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years; and shall also be liable to fine and to forfeiture of any property used, or intended to be used in committing such depredation, or acquired by such depredation.

Receiving property taken by war or depredation mentioned in Sections 125 and 126.

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Public servant voluntarily allowing prisoner of State or War in his custody to escape.

128. Whoever, being a public servant, and having the custody of any State Prisoner or Prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant negligently suffering Prisoner of State or War in his custody to escape.

129. Whoever, being a public servant, and having the custody of any State Prisoner or Prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape or rescuing, or harbouring such prisoner.

130. Whoever knowingly aids or assists any State Prisoner or Prisoner of War in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to

offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State Prisoner or Prisoner of War, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

Of Offences relating to the Army and Navy.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of any mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

133. Whoever abets an assault by an officer, soldier, or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, or sailor in the Army or Navy of the Queen, or any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier or sailor.

135. Whoever abets the desertion of any officer, soldier, or sailor in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harboring a deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor in the Army or Navy of the Queen has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board a merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding 500 Rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by a soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Person subject to Articles of War not punishable under this Code.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing the dress of a soldier.

140. Whoever not being a soldier in the Military or Naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 500 Rupees, or with both.

CHAPTER VIII.

Of Offences against the Public Tranquillity.

Unlawful assembly.

* 141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is—

First.—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor or any Public Servant in the exercise of the lawful power of such Public Servant; or,

Secondly.—To resist the execution of any law, or of any legal process; or,

Thirdly.—To commit any mischief or criminal trespass, or other offence; or,

Fourthly.—By means of criminal force, or show of criminal force to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or,

Fifthly.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

* See Act No. IV., 1867, Section 1.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Force used by one member in prosecution of the common object.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting.

147. Whoever is guilty of rioting shall be punished with imprisoment of either description for a term which may extend to two years, or with fine, or with both.

Rioting, armed with a deadly weapon.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every member of an unlawful assembly to be held guilty of any offence committed in prosecution of common object.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is member of the same assembly, is guilty of that offence.

Hiring, or conniving at hiring of persons to join an unlawful assembly.

150. Whoever hires or engages or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

151. Whoever, knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with a fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

Assaulting or obstructing public servant when suppressing riot, &c.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Wantonly giving provocation with intent to cause riot. If rioting be committed.

If not committed.

153. Whoever malignantly or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding 1,000 Rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police Station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit a riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively

use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place, and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons knowing that such persons have hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

158. Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Or to go armed.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for the commission of an Affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to 100 Rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.*

Public servant taking a gratification,

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person any gratification whatever, other than legal remuera-

* Every officer and servant of a Railway Company is, by Act XXXI., 1867, Section 2, to be deemed a public servant within the meaning of the first five Sections of this Chapter, and by Section 3 the word Government is to be deemed, in Section 161 of this Act, to include a Railway Company.

other than legal remuneration, in respect of an official act.

tion, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a.*) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(*b.*) A, holding the office of Resident at the Court of a subsidiary power, accepts a lakh of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that power. A has committed the offence defined in this Section.

(*c.*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this Section.

Taking a gratification, in order, by corrupt or illegal means, to influence a public servant.

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of the Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to

do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant obtaining any valuable thing without consideration, from person concerned in any proceeding or business transacted by such public servant.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted, or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay 50 Rupees a month, the house being such that if the bargain were made in good faith, A would be required to pay 200 Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b.*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c.*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying a direction of

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to

the law, with intent to cause injury to any person.

cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with a knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 200 Rupees, or with both.

CHAPTER X.

Of Contempts of the Lawful Authority of Public Servants.

Absconding to avoid service of summons or

172. Whoever absconds in order to avoid being served with a summons, notice, or order, proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice, or order, shall be

other proceeding from a public servant.

punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order, proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order, from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both; or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Non-attendance in obedience to an order from a public servant.

* 174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Illustrations.

(*a*.) A, being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this Section.

(*b*.) A, being legally bound to appear before a Zillah Judge, as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this Section.

Omission to produce a document to a public servant by a person legally bound to produce such document.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both; or if the document

* This section does not apply to the case of a defendant escaping from custody under a warrant in execution of a decree of a Civil Court.—Reg. *v.* Sirdar Pathoo, 1, B. R., p. 38.

is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Illustration.

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same. A has committed the offence defined in this Section.

Omission to give notice or information to a public servant by a person legally bound to give notice or information.

* 176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Furnishing false information.

* 177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both; or if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District, that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this Section.

(*b.*) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under Clause 5, Section 7, Regulation III., 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

Refusing oath when duly required to take oath by a public servant.

178. Whoever refuses to bind himself by an oath to state the truth when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Refusing to answer a public servant authorized to question.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple

* See Act No. IV., 1867, Section 1; see also Reg. *v.* Roghoji, 3, B. R., C. C., p. 43.

imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to 500 Rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

182. Whoever, gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Illustrations.

(*a.*) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(*b.*) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both.

Illegal purchase or bid for property offered

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself

for sale by authority of a public servant.

or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to 200 Rupees, or with both.

Obstructing public servant in discharge of his public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 500 Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 200 Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence,* or of suppressing a riot or affray, or apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to 500 Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

† 188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 200 Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

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* See Act No. IV., 1867, Section 1, for the definition of the word "offence."

† A sentence of rigorous imprisonment under this Section was altered to one of simple imprisonment, the Magistrate's finding not showing that the case came within the latter part of the Section.—Reg. *v.* Kattanrao, 3, B. R., C. C., p. 32. Conviction under this Section was reversed, the public servant not being legally empowered to pass the order which the accused disobeyed.—Reg. *v.* Bhea, 3, B. R., C. C., p. 53.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

CHAPTER XI.

Of False Evidence and Offences against Public Justice.

191. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Giving false evidence.

Explanation 1.—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a.*) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b.*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the hand-writing of Z, when he does not believe it to be the hand-writing of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c.*) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d.*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(*e.*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may

Fabricating false evidence.

appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a*.) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*.) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c*.) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for false evidence.

*193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding,† shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence‡ which is capital by this Code, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years,

* A witness falsely deposing in another's name, should be charged with giving false evidence under this Section.—Reg. *v.* Prema Bhicka, 1, B. R., p. 89.

† These words are, by Section 28, Act IX., 1869, to be taken to include any proceeding under that Act.

‡ See Act No. IV., 1867, for the definition of the word "offence."

and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

If innocent person be thereby convicted and executed.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause any person to be convicted of an offence* which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Issuing or signing false certificate.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

†201. Whoever, knowing or having reason to believe that an

* See Act No. IV., 1867, for the definition of the word "offence."

† See Act No. IV., 1867, Section 1.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screem the offender.—If a capital offence.

If punishable with transportation.

If punishable with less than ten years imprisonment.

offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment for any term not extending ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Intentional omission to give information of an offence, by a person bound to inform.

*202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Giving false information respecting an offence committed.

203. Whoever, knowing or having reason to believe that an offence† has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished

* See Act No. IV., 1867, for the definition of the word "offence."

† See Act No. IV., 1867, Section 1.

with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as forfeiture, or in execution of a decree.

206. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due, to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

Dishonestly making false claim in a Court of Justice.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a

decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

*211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence† knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

‡212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

213. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment

* A party accused under this section should be allowed to show the information on which he acted, and the judge ought to be satisfied not only that the facts alleged were in themselves untrue, but that the accused when making the charge knew them to be so.—Reg. *v.* Navalmal, 3, B. R., C. C., p. 16.

A prisoner convicted under the second clause of this section should not be sentenced to fine alone.—Reg. *v.* Rama, 1, B. R., p. 34.

† See Act No. IV., 1867, for the definition of the word "offence." The refusal to give a stamp receipt for money paid is not an offence.—Reg. *v.* Gapaoo, 1, B. R., p. 92.

‡ See Act No. IV., 1867, Section 1.

for any offence,* or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

214. Whoever gives or causes, or offers* or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a Civil action.

Illustrations.

(*a.*) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded.

(*b.*) A assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have Civil action for the assault, it is within the exception, and may be compounded.

(*c.*) A commits the offence of bigamy. Here, as the offence is not the subject of a Civil action, it cannot be compounded.

(*d.*) B commits the offence of adultery with a married woman. The offence may be compounded.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punish-

Taking gift to help to recover stolen property, &c.

* See Act No. IV., 1867, for the definition of the word "offence."

able under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody or whose apprehension has been ordered.

*216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save any person from legal punishment or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

* See Act No. IV., 1867, Section 1.

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

Punishment.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence,* intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with death; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice.

Punishment.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence,* intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

With transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement or who ought to have been apprehended is under sentence of death; or,

* See Act No. IV., 1867, for the definition of the word "offence," and add the "words or lawfully committed to custody."

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life or to transportation or penal servitude or imprisonment for a term of ten years or upwards; or,

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.*

Escape from confinement negligently suffered by a public servant.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence,† negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence† with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or obstruction to the lawful apprehension of another person.

Punishment.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence,† or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

* Add here the words "or if the person was lawfully committed to custody." See Act No. IV., 1867, Section 2.

† See Act No. IV., 1867, for the definition of the word "offence," and add the words "or lawfully committed to custody."

Or, if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Unlawful return from transportation.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Violation of condition of remission of punishment.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.

228. Whoever intentionally offers any insult or causes any interruption* to any public servant, while such public servant is sitting in any stage of a judicial proceeding,† shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Personation of a juror or assessor.

229. Whoever by personation or otherwise shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn, contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII.

Of Offences relating to Coin and Government Stamps.

Coin.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used.

* Prevarication in giving evidence does not constitute this offence.—Reg. *v.* Auba, 4, B. R., C. C., p. 6. Nor does refusing or neglecting to return direct answers. —Reg. *v.* Pandu, *Ibid*, p. 7.

† These words are by Section 28, Act No. IX., 1869, to be taken to include any proceeding under that Act.

Queen's coin.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, is the Queen's coin.

Illustrations.

(*a.*) Cowries are not Coin.
(*b.*) Lumps of unstamped copper, though used as money, are not coin.
(*c.*) Medals are not coin, inasmuch as they are not intended to be used as money.
(*d.*) The coin denominated as the Company's Rupee is the Queen's coin.

Counterfeiting coin.

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence, who, intending to practice deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or export of counterfeit coin.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished

with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is counterfeit.

239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin, possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which at the time when he became possessed of it he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin as genuine, which when first possessed the deliverer did not know to be counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration.

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section, but B and C are punishable under Section 239 or 240 as the case may be.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Employee in a mint causing coin to be of a different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin, and puts anything else into the cavity, alters the composition of that coin.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

248. Whoever performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

250. Whoever, having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is altered.

251. Whoever, having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently, or

with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

252. Whoever, fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever, fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to recieve as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Section 246, 247, 248, or 249, has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Counterfeiting a Government stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp

issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government.

261. Whoever, fraudulently, or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government stamp known to have been before used.

262. Whoever, fraudulently, or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

263. Whoever, fraudulently, or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIII.

Of Offences relating to Weights and Measures.

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

* 266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

267. Whoever makes, sells, or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity, which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

CHAPTER XIV.

Of Offences affecting the Public Health, Safety, Convenience, Decency, and Morals.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

Public nuisance.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Negligent act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails

Disobedience to a quarantine rule.

* Mere possession is not sufficient: fraudulent intent must be charged and proved. —Reg. *v.* Damodhur Dalljee, 1, B. R., p. 181.

and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Sale of any drug as a different drug or preparation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Fouling the water of a public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 500 Rupees, or with both.

Making atmosphere noxious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along the public way, shall be punished with fine which may extend to 500 Rupees.

Rash driving or riding on a public way.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Rash navigation of a vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees or with both.

Exhibition of a false light, mark, or buoy.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

*282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to 200 Rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

* This is the Section, and not Section 336, under which a sailor, plying on the river a boat which was out of order and had a crack and taking therein about 100 passengers, with the assistance of only two men, ought to be tried. Reg. *v.* Khoda, Jacta and others, 1, B. R., p. 137.

Negligent conduct with respect to any explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Negligence with respect to any animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Punishment for public nuisance.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to 200 Rupees.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant, who has lawful authority to issue such injunction, not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Sale, &c. of obscene books.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscene book for sale or exhibition.

* 294. Whoever sings, recites, or utters in or near any public place any obscene songs, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

CHAPTER XV.

Of Offences relating to Religion.

295. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injuring or defiling a place of worship with intent to insult the religion of any class.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing a religious assembly.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, &c.,

298, Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, &c. with deliberate intent to wound the religious feelings of any person.

* Repeating *Lavinya* is not an offence under this Section in the absence of evidence that the *Lavinya* repeated were obscene, many Lavinya being almost sacred songs.—Reg. *v.* Gaun, 4, B. R., C. C., p. 25.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

Culpable homicide.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

(*a.*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(*b.*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c.*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death; or,

2*ndly*.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or,

3*rdly*.—If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or,

4*thly*.—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a.*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b.*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in

consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c.*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intented to cause Z's death.

(*d.*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisoes:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a.*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b.*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c.*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his power.

(*d.*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(*e.*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f.*) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder, if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder, if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder, if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of B's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing the death of a person other than the person whose death was intended.

301. If a person, by doing any thing which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by a life convict.

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Abetment of suicide of child or insane person.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punish-

ed with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt to murder.

* 307. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life or to such punishment as is hereinbefore mentioned.

Illustrations.

(*a.*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(*b.*) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(*c.*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(*d.*) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table, or delivers it to Z's servant to place it on Z's table. A has committed the offence defined in this Section.

Attempt to commit culpable homicide.

308. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culable homicide not amounting to murder. A has committed the offence defined in this Spection.

Attempt to commit suicide.

† 309. Whoever attempts to commit suicide, and does any act towards the commission of such offence shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a Thug.

* See Act XXIII., 1867, Sections 2 and 3. In order to constitute the offence of attempt to murder under this Section, the act must be one capable of causing death in the ordinary course of events.—Reg. *v.* Cassidy, 4, B. R., C. C., p. 17.

† A prisoner found guilty under this Section must be sentenced to some imprisonment, and not merely to payment of a fine.—Reg. *v.* Chenviowa, B. R. I., p. 4.

Punishment.

311. Whoever is a Thug shall be punished with transportation for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this Section.

Causing miscarriage without woman's consent.

313. Whoever commits the offence defined in the last preceding Section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage.

If act done without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above-mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of a quick unborn child by an act amounting to culpable homicide.

316. Whoever does any act, under such circumstances that if he thereby cause death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this Section.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

317. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This Section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF HURT.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Grievous hurt.

320. The following kinds of hurt only are designated as "grievous:"—

First—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause, or knows himself to be likely to cause, is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt, except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to 1,000 Rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for voluntarily causing grievous hurt.

325. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence,* shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

328. Whoever administers to, or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence,* or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. Whoever voluntarily causes grievous hurt for the purpose

* See Act IV., 1867, for the definition of the word "offence."

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer, or any person interested in such sufferer, to do anything which is illegal or which may facilitate the commission of an offence,* shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence* or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a.*) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(*b.*) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(*c.*) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(*d.*) A, a zemindar, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this Section.

Voluntarily causing grievous hurt to extort confession or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence* or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or

* See Act IV., 1867, for the definition of the word "offence."

a public servant from his duty.

deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

* 334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both.

Causing grievous hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to 2,000 Rupees, or with both.

Explanation.—The last two Sections are subject to the same provisoes as Exception 1, Section 300.

Punishment for act which endangers life or the personal safety of others.

† 336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 250 Rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to 500 Rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to 1,000 Rupees, or with both.

Wrongful Restraint and Wrongful Confinement.

Wrongful restraint.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

* This Section, and not Section 324, is rightly applied to the principal party who received the provocation and thereupon caused the hurt complained of.—Reg. *v.* Bhulu Chulu, 1, B. R., p. 16.

† A sentence passed under this Section upon three sailors, plying on the river, with insufficient assistance, a boat which had a crack and was out of order, and taking therein about 100 passengers, was set aside, and proceedings under Section 282 were directed.—Reg. *v.* Khoda Jackta and others, 1, B. R., p. 137.

Exception.—The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a.*) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b.*) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to 1,000 Rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for ten or more days.

* 344. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to, or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

* Fine alone is not a legal sentence for a prisoner convicted under this Section. —Reg. *v.* Babeerjee, 1, B. R., p. 39.

Wrongful confinement for the purpose of extorting property or constraining to an illegal act.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined, or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence,* shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence* or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore, or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion, as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion, in one of the three ways hereinafter described:—

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion, takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause, injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a.*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

* See Act IV., 1867, for the definition of the word "offence."

(*b.*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion, A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c.*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z, and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d.*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e.*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f.*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g.*) Z is bathing. A pours into the bath water which he knows to be boiling. Here, A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(*h.*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a.*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b.*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c.*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for using criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person being otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 500 Rupees, or both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or,

If the provocation is given by any thing done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or,

If the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonor a person otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonor that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to 1,000 Rupees, or with both.

Assaulting or using criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 200 Rupees, or with both.

Explanation.—The last Section is subject to the same explanation as Section 352.

Of Kidnapping, Abduction, Slavery, and Forced Labor.

Kidnapping.

359. Kidnapping is of two kinds: kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in oder to murder.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a.*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(*b.*) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this Section.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he had kidnapped or abducted such person, with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under ten years with intent to steal moveable property from the person of such child.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unlawful compulsory labor.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Rape.

Rape.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under ten years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

Punishment for rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of unnatural Offences.

Unnatural offences.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.

Of Offences against Property. Of Theft.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be expressed or implied, and may be given either by the person in posses-

sion, by or any person having for that purpose authority either express or implied.

Illustrations.

(*a.*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b.*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c.*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d.*) A, being Z's servant, and intrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e.*) Z, going on a journey, entrusts his plate to A, keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f.*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g.*) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h.*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i.*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j.*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft inasmuch as he takes it dishonestly.

(*k.*) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l.*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m.*) A being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n.*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o.*) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p.*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

*380. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft in dwelling house, &c.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to the committing of the theft.

Illustrations.

(*a.*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(*b.*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

†383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed which may be converted into a valuable security, commits "extortion."

Extortion.

Illustrations.

(*a.*) A threatens to punish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b.*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c.*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induce Z to sign and deliver the bond. A has committed extortion.

(*d.*) A by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

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* A first class Subordinate Magistrate has no jurisdiction to try a charge of theft in a house under this Section.—Reg. *v.* Koosha, 1, B. R., p. 88.

† A conviction under this Section was reversed, there being no such fear of injury as is contemplated therein, the delivery of money not having been induced by fear, and it being possible that the prisoner might have believed in good faith that he was entitled to it.—Reg. *v.* Abdul Kadar, 3, B. R., C. C., p. 45. It is not necessary under this Section that the threat should be used and the property received by the same individual.—Reg. *v.* Shankar Bhagvat and another, 2, B. R., p. 418.

Punishment for extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by by putting a person in fear of death or grievous hurt.

386. Whoever commits extortion by putting any person in fear of death or grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Extortion by threat of accusation of an offence punishable with death or transportation, &c.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence* punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed or attempted to commit an offence* punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under Section 377, may be punished with transportation for life.

Of Robbery and Dacoity.

Robbery.

390. In all robbery there is either theft or extortion.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death, or hurt, or wrongful restraint, or fear of instant death, or of instant hurt or of instant wrongful restraint.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant

* See Act IV., 1867, for the definition of the word "offence."

hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, or of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a.*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b.*) A meets Z on the high-road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c.*) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child, who is there present A has therefore committed robbery on Z.

(*d.*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery unless Z is put in fear of the instant death of the child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery; and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding, is said to commit "dacoity."

Punishment for robbery.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sunset and sun-rise, the imprisonment may be extended to fourteen years.

Attempt to Commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in Committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person, jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates* or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(*b.*) A, being on friendly terms with Z, goes into Z's library in Z's absence and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(*c.*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

* Where the misappropriation is of property entrusted to the prisoner's care by the complainant, the offence is criminal breach of trust, and punishable under Section 406.—Reg. *v.* Gaun, 4, B. R., C. C., p. 3.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence: but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a*.) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence defined in this Section.

(*b*.) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(*c*.) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(*d*.) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(*e*.) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(*f*.) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this Section.

Of Criminal Breach of Trust.

Criminal breach of trust.

* 405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a.*) A, being executor to the will of a deceased person, dishonestly disobeys the law, which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust."

(*b.*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c.*) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lac of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d.*) But if A in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e.*) A, a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f.*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal breach of trust by carrier, &c.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect to such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

408. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

* A sentence which was legal under this Section was not set aside, though the conviction had been wrongly made under Section 417.—Reg. *v.* Babaji, 4, B. R., C. C., p. 16. A refusal to give up land alleged to have been mortgaged, the mortgage having been denied, cannot be treated as a dishonest misappropriation of the documents of title.—Reg. *v.* Jaffir Naik, 2, B. R., p. 133.

Criminal breach of trust by public servant or by banker, merchant, or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property.

Stolen property.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

* 411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

† 414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Of Cheating.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not

* A charge under this Section should state that the articles found in possession of the accused were the property of A. B., the owner thereof.—Reg. *v.* Siddo, 1, B. R., p. 95.

† See Reg. *v.* Harishankar Fakirbhat, 2, B. R., p. 136.

so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat".

Explanatian.—A dishonest concealment of facts is a deception within the meaning of this Section.

Illustrations.

(*a.*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b.*) A, by putting a counterfeit mark on an article intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c.*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article, a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e.*) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f.*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g.*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h.*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i.*) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(*a.*) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(*b*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

* 417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person

* A passenger by Railway, travelling in a carriage of higher class than that for which he had paid fare, is not guilty of cheating under this Section.—Reg. *v.* Dayabhoy Parjaram, 1, B. R., p. 140. See Reg. *v.* Roghoji, 3, B. R., C. C., p. 43.

loss may be thereby caused to a person whose interest the offender is bound to protect.

whose interest in the transaction to which the cheating relates, he was bound, either by law or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

* 419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing a delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Of Fraudulent Deeds and Dispositions of Property.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

421. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

* A witness falsely deposing in another's name should not be charged under this Section, but under Section 193.—Reg. *v.* Prima Bhicka, 1, B. R., p. 89.

Of Mischief.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*.) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*.) A introduces water into an ice-house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*.) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*.) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*.) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*.) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g*.) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*.) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty Rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of 50 Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten Rupees.

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of fifty Rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of 50 Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

431. Whoever commits mischief by doing any Act which renders, or which he knows to be likely to render, any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark or by exhibiting false lights.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark or any sea-mark, or buoy, or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, &c., a land-mark fixed by public authority.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of 100 Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship, or as a human dwelling, or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to

unsafe a decked vessel or a vessel of 20 tons burden.

be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last Section when committed by fire or any explosive substance.

438. Whoever commits or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass.

Criminal trespass.

* 441. Whoever enters into or upon property in the possession of another, with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal tresspass.

House-trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Lurking house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

Lurking house-trespass by night.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

House-breaking.

445. A person is said to commit "house-breaking," who commits house-tresspass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of

* See Act IV., 1867, Section 1.

committing an offence,* or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say :—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force, or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

(*a.*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-beraking.

(*b.*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c.*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d.*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e.*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f.*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g.*) Z is standing in his door-way, A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h.*) Z, the door-keeper of Y, is standing in Y's door-way. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 500 Rupees, or with both.

* See Act IV., 1867, for the definition of the word "offence."

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to 1,000 Rupees, or with both.

Punishment for house-trespass.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for puttting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

455. Whoever commits lurking house-trespass or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

457. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person.

458. Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

460. If, at the time of the committing of lurking house-trespass by night, or house-breaking by night, any person guilty of such offence shall voluntarily cause, or attempt to cause, death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night, or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

Forgery.

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express

or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document. 464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed, or at a time at which he knows that it was not made signed, sealed, or executed; or,

Secondly.—Who, without lawful authority, dishonestly or fraudulently by cancellation, or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or,

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person, by reason of unsoundness of mind or intoxication, cannot, or that by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a.*) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(*b.*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(*c.*) A picks up a cheque on a Banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(*d.*) A leaves with B, his agent, a cheque on a Banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(*e.*) A draws a Bill of Exchange on himself in the name of B without B's authority, intending to discount it as a genuine Bill with a Banker, and intending to take up the Bill on its maturity. Here, as A draws the Bill with intent to deceive the Banker by leading him to suppose that he has the security of B, and thereby to discount the Bill, A is guilty of forgery.

(*f.*) Z's will contains these words—"I direct that all my remaining property be equally devided between A, B, and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g.*) A endorses a Government Promissory Note and makes it payable to Z, or his order, by writing on the Bill the words "Pay to Z, or his order," and singing the endorsement. B dishonestly erases the words "pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(*h.*) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i.*) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j.*) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k.*) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(*a.*) A signs his own name to a Bill of Exchange, intending that it may be believed that the Bill was drawn by another person of the same name. A has committed forgery.

(*b.*) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a Bill of Exchange drawn by B upon Z, and negotiate the Bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the Bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(*c.*) A picks up a Bill of Exchange payable to the order of a different person of the same name. A endorses the Bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(*d.*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e.*) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a color to the transaction, writes a Promissory Note binding himself to pay to B a sum for value received and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his life-time, may amount to forgery.

Illustration.

A draws a Bill of Exchange upon a fictitious person, and fraudulently accepts the Bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of a record of a Court of Justice, or of a public Register of Births, &c.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity or an authority to institute or defend a suit, or to take any proceedings therein, or to confses judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a valuable security or will.

467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for the purpose of cheating.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of harming the reputation of any person.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"A forged document."

470. A false document made wholly or in part by forgery is designated "a forged document."

Using as genuine a forged document.

471. Whoever, fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery, punishable under Section 467.

472. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 466, be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine; and if the document is one

of the description mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material.

475. Whoever counterfeits upon or in the substance of any material, any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material.

476. Whoever counterfeits upon or in the substance of any material, any device or mark used for the purpose of authenticating any document other than the documents described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of a will.

477. Whoever, fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete, any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Of Trade and Property-Marks.

Trade-mark.

478. A mark used for denoting that goods have been made or manufactured by a particular person, or at a particular time or place, or that they are of a particular quality, is called a trade-mark.

Property-mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property-mark.

Using a false trade-mark.

480. Whoever marks any goods, or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that

they are of a particular quality of which they are not, is said to use a false trade-mark.

Using a false property-mark.

481. Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case package, or other receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark.

Punishment for using a false trade or property-mark with intent to deceive or injure any person.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade or property-mark used by another with intent to cause damage or injury.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.

484. Whoever, with intent, to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person, or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

485. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark, with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade-mark.

486. Whoever sells any goods with a counterfeit property or trade-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to, or impressed upon any goods or merchandize not manufactured or made by the

person, or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, know ing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

Defacing any property-mark with intent to cause injury.

489. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Breach of contract of service during a voyage or journey.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to 100 Rupees, or with both.

Illustrations.

(*a*.) A, a palanquin-bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(*b*.) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this Section.

(*c*.) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(*d*.) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with the Dâk Company to drive his carriage for a month. B employs the Dâk Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who by reason of youth or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 200 Rupees, or with both.

Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both: unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

Of Offences relating to Marriage.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during the life-time of husband or wife.

* 494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This Section does not extend to any person whose marriage, with such husband or wife, has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage

* A custom of a particular caste permitting a woman to leave her first husband, and to contract during his life-time and without his consent a second marriage with another man, is invalid as being entirely opposed to the spirit of the Hindoo Law, and such a marriage renders the woman punishable under this Section.—Reg. *v.* Karsan Gaja 2, B. R., p. 124.

during the life of a former husband or wife, if such husband or wife at the time of the subsequent marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

495. Whover commits the offence defined in the last preceding Section, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

* 497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Enticing or taking away, or detaining with a criminal intent, a married woman.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

OF DEFAMATION.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute any thing to a deceased person, if the imputation would harm the reputation of

* Sexual intercourse with a woman under the custom described in the note to Section 494, renders the man punishable for adultery under this Section.—Reg. *v.* Kursau Gaja, 2, B. R., p. 124.

that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation, directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*.) A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(*b*.) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(*c*.) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute any thing which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of the public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct

of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Illustrations.

(*a.*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b.*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no farther.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a.*) A person who publishes a book, submits that book to the judgment of the public.

(*b.*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c.*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d.*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e.*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his Bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's faither—A is within this exception.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a.*) A shop-keeper says to B, who manages his business—" Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b.*) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A is within the exception.

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Punishment for defamation.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

Of Criminal Intimidation, Insult, and Annoyance.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, &c.

505. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidation.

* 506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonmemt of either description for a term which may extend to seven years, or with fine, or with both.

If threat be to cause death or grievous hurt, &c.

Criminal intimidation by anonymous communication.

* 507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do any thing which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustration.

(*a.*) A sits dhurna at Z's door, with the intention of causing it to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in this Section.

(*b.*) A threatens Z that unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in this Section.

Word or gesture intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object

* Where a prisoner was charged and sentenced under both these Sections, but the offence was substantially only one, the second conviction was annulled.—Reg. *v.* Zara Karuseg, 4, B. R., C. C., p. 12.

shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to 10 Rupees, or with both.

CHAPTER XXIII.

Of Attempts to Commit Offences.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

*511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(a.) A makes an attempt to steal some jewels by breaking open a box, and finds, after opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this Section.

(b.) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this Section.

Act No. XLVI. of 1860.†

General.

1. Repealed.
2. Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.
3. Powers of Agents.
4. Operations of recruitment.
5. Protector of Emigrants.
6. Contracts of service, with certain exceptions, to be made in India. Effect of contract.
7. Matters to be provided for in contract.
8. Emigrant ships to be licensed. Fee for license. Master of ship to give Bond. Penalty if ship be not licensed.
9. Master of vessel not to receive on board any Emigrant without a certificate. Certificate what to state, &c.
10. Protector to hold personal conference with every Emigrant before embarkation. Enquiries to be made in public.
11. Before Port-clearance, Master of ship to obtain certificate from Protector stating—
12. Probable lengths of voyage.
13. Time of sailing.
14. Emigrant vessel to carry a European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.
15. Space to be set apart for Emigrants on board-ship.
16. Amount or proportion of provisions to be carried by Emigrant vessel over and above the victualling of the crew. Proviso.
17. Before Port-clearance, Master of vessel to obtain a Survey Certificate.
18. Up to what time Master of vessel to furnish Emigrants with provisions.
19. Emigrant vessel to carry copies and translations of the Regulations.
20. Master to deliver list to Protector.
21. Penalty for for non-compliance with particulars required before clearance.

* A sentence of whipping was held illegal, the conviction being of an attempt to commit an offence under Section 457.—Reg. *v.* Yella, 3, B. R., C, C., p. 37.

† Amended by Act VII. of 1862.

22. Penalty for taking on board, after clearance, Emigrants not entered in list.
23. Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.
24. Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.
25. Custom House Officers and Pilots at Calcutta to countersign papers. To muster crew and passengers and Emigrants. Report of Emigrants on board. Penalty.
26. Punishment for forgery of document required by this Act.
27. Penalties how to be enforced.
28. Levy of fines.
29. Numerical proportion of women to men by each shipment.
30. Protector to have right of access to every part of the ship.
31. Act when to take effect.

An Act to authorize and regulate the Emigration of Native labourers to the French Colonies.

Whereas a Convention has been negotiated between Her Majesty the Queen of Great Britian and Ireland and His Majesty the Emperor of the French, comprising the following Articles :—

ARTICLE I.

The French Government shall be at liberty to recruit and engage labourers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall intrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British Colonies.

ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enable to satisfy himself either that the Emigrant is not a British subject, or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI, of the present Convention.

ARTICLE IX.

1. The duration of the Emigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement, but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Emigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The Emigrant shall not be bound to work more than six days in seven, nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the labourer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the Depôts or other place in which they may be lodged, in order to communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry a European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, or in cabins on the upper-deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departure on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Emigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of labourers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Emigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of emigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health and equipment which may apply to French vessels.

ARTICLE XXIII.

The labour regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modifications, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Re-Union, Martinique, Guadaloupe and its dependencies, and Guiana.

It may hereafter be applied to emigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

* The present Convention shall begin to take effect on the 1st of September, 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

It is understood that the stipulations of the present Convention relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indians until they shall either have been sent back to their own country or have renounced their right to a return-passage.

And whereas a Convention was concluded and signed at Paris on the 25th day of July, 1860, between Her said Majesty the Queen of Great Britain and Ireland and His said Majesty the Emperor of the French, consisting of the same Articles, but limited to the Emigration to the French Colony of Re-Union from India of Native labourers to the number of not more than six thousand:

And whereas it is necessary, in order to give effect to the said Conventions, and for the due protection of Natives of India emigrating to French Colonies, that an Act of the Legislative Council of India should be passed; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

* This Article of the Convention was altered by substituting for it another, which will be found in Act VII., 1862, but the provisions of this Act are not to be affected by such alteration.

Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay: Provided that such person, before entering on the duties of his office under this Act, shall have been approved by Her Majesty.

Powers of Agents.

III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

Operations of recruitment.

IV. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

Protector of Emigrants.

V. The Protector of Emigrants at each of three British Ports aforesaid, shall act for the British Government as Protector of Labourers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Article 5 of the said Convention shall be performed under such instructions as may be given by the Governor-General in Council on that behalf.

Contracts of service, with certain exceptions, to be made in India. Effect of contract.

VI. All contracts of service made with labourers emigrating under this Act, except the contracts mentioned in Section 4 of Article 9 and Section 2 of Article 10, of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony to which he emigrates.

Matters to be provided for in contract.

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

1.—The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2.—The number of days and hours of work.

3.—The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4.—Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

5.—In every contracts of engagement there shall be inserted an exact copy of Articles 9, 10, 20, and 21 of the Convention hereinbefore recited.

Emigrant ships to be licensed.

VIII. It shall not be lawful to convey any Emigrant being a native of India, who may embark for the purpose of labouring for hire in any one of the said Colonies from any of the three British Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port

Fee for license.

is situated. A fee, not exceeding 1 Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees, to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agent at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdeameanor, to a fine of 100 Rupees for every such Emigrant so illegally embarked.

Master of ship to give Bond.

Penalty if ship be not licensed.

IX. It shall not be lawful for the Master of any vessel licensed as above-mentioned to receive on board any Emigrant labourer, as above provided, unless such labourer shall have in his possession and shew a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Master of vessel not to receive on board any Emigrant without a certificate.

Certificate what to state, &c.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarrantable expectations; and that every such Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

Protector to hold personal conference with every Emigrant before embarkation.

Enquiries to be made in public.

XI.* Before any ship or vessel, so licensed to carry Emigrant labourers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Protector of

Before Port-clearance, Master of ship to obtain certificate from Protector.

Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say :—

First.—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

Second.—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

Third.—That such rules have been complied with as the Governor-General in Council shall from time to time frame touching the medical attendance and medical stores and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

Probable lengths of voyage.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows :—

From the Port of Calcutta to Re-Union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.*

From the Port of Bombay—

Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Guadaloupe and its dependencies, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor-General of India in Council may, by order to be published in the *Calcutta Gazette*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established, and to which the application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

Time of sailing.

XIII. *Clause* 1.—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

Clause 2.—For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Clause 3.—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

* Six weeks. See Act VI, 1869, Section 1.

Emigrant vessel to carry a European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XIV. Every Emigrant vessel must carry a European Surgeon and an Interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Space to be set apart for Emigrants on board-ship.

XV. *Clause* 1.—In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins or the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Clause 2.—No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

Clause 3.—An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

Clause 4.—A place shall be fitted up for a hospital in every Emigrant ship.

Clause 5.—Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

Amount or proportion of provisions to be carried by Emigrant vessel over and above the victualling of the crew.

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid, at the time of departure of such ship or vessel from the Port at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say:—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds' weight to every week of the computed voyage for every such passenger: Provided, always, that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filling up her water-casks, a supply of water at the rate before-mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto: Provided, also, that, when any such ship or vessel is fitted with Normandy's apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Proviso.

Before Port-clearance, Master of vessel to obtain a Survey Certificate.

XVII. Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Up to what time Master of vessel to furnish Emigrants with provisions.

XVIII. The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Emigrant vessel to carry copies and translations of these regulations.

XIX. Two copies of Sections 10 to 20 inclusive of this Act, and two copies of a translation thereof in such Native language as the local Government may direct, authenticated by the signature of the Protector of Emigrants at the Port or place at which such Emigrants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his persual.

Master to deliver list to Protector of Emigrants.

XX. The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid, shall, before clearing out such ship or vessel, deliver to the Protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

Penalty for non-compliance with particulars required before clearance.

XXI. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant labourer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable, on

conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding 200 Rupees for every Emigrant labourer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XXII. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant Labourer as aforesaid without having entered such Emigrant Labourer in such list as aforesaid, or without having obtained such duplicate as aforesaid, containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding 500 Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XXIII. If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable, on conviction, to a penalty not exceeding 5,000 Rupees, besides incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officer and Pilots at Calcutta to countersign papers.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant labourers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant labourer, and shall keep a register of every such Emigrant labourer as may come on board. And such Customs Officers shall remain on board such vessel until she shall arrive in Saugor Road, and shall not come away until muster of the crew and passengers and Emigrant labourers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant labourers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant labourers on board of any ship at the time of his quitting the same; and such report shall contain a declaration

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

that to the best of the declarant's belief no additional Emigrant labourers have been received on board since obtaining the certificate, and that nothing else has deen done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant labourers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant labourers, shall be liable, besides dismissal, to a fine of 5,000 Rupees, commutable if not paid to imprisonment in the Civil Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

Penalty.

XXVI. If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

XXVII. All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to be enforced.

XXVIII. All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency aforesaid shall be made to appear to the Megistrate or Justice, he shall, by warrant, commit the offender to jail, there to be imprisoned, according to the discretion of the Magistrate or Justice, for any term not exceeding two months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four months where the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines.

Numerical proportion of women to men by each shipment.

XXIX. Each shipment of Emigrants under this Act shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more it shall be raised to one-half: and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

Protector to have right of access to every part of the ship.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

Act when to take effect.

XXXI. This Act shall take effect as to the Emigration of Native labourers from India to the number of not more than six thousand to the Island of Re-Union, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Gaudaloupe and its dependencies, and Guiana, from the time when the Convention herein recited and set forth shall have been concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor-General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer: Provided that Act XIX. of 1856 *(to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Labourers)* shall have full force and effect in respect to the Emigration of Native labourers to any or all of the French Colonies under this Act.

Act No. XLVII. of 1860.

General.

1. Power of Universities to confer Degrees.
2. Construction.

An Act for giving to the Universities of Calcutta, Madras, and Bombay the power of conferring Degrees in addition to those mentioned in Acts II., XXII., and XXVII., of 1857.

Whereas it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II., XXII., and XXVII., of 1857, the power of conferring Degrees other than the Degrees in that Act expressly provided for; It is enacted as follows:

Power of Universities to confer Degrees.

I. It shall be competent to the Chancellor, Vice-Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay, respectively, to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice-Chancellor, and Fellows of any such University shall have appointed or shall appoint by any Bye-Laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor-General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regard, the Universities of Madras and Bombay, respectively.

II. All the provisions contained in the said Acts II., XXII., and XXVII., of 1857, with respect to the Degrees therein mentioned, and to the examinations for those Degrees, shall apply to any Degrees which may be conferred under this Act and to the examinations for such Degrees.

Construction.

ACT No. XLVIII. OF 1860.*

Presidency Towns.

1. Repealed.
2. Police Officers taking bribes.
3. Members of Police Force not to resign without leave, or six or two month's notice.
4. Jurisdiction of Police Magistrate in certain cases.
5. Restitution of stolen property, if forthcoming, to owner, or imposition of fine on offender.
6. Imposition of fine (in addition to punishment for the offence) to indemnify owner for loss sustained.
7. Assaulting Policeman in execution of duty.
8. Penalty for escaping from a place of legal confinement.
9. Penalty for wilful trespass on property.
10. Magistrate may make order of maintenance for wives and children. Proviso.
11. Calcutta and Madras.—Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police. Bombay.—Penalty for keeping such house, and for retailing spirits in any place without a license.
12. Licenses by Commissioner of Police for keeping Taverns and places of public entertainment. Licenses to be granted only to persons who have taken out the requisite Abkaree licenses. Fees on licenses.
13. Forfeiture of license and fine.
14. Brothels.
15. Common gaming-houses.
16. Taking pledge from child under the age of fourteen.
17. Penalty for using false weights and measures. Standards of weights and measures.
18. Powers of Inspector, &c., to enter shops to seize false weights and measures.
19. Penalty for the following offences in public streets, &c.
20. Commissioner of Police in Bombay to make rules for blasting of rocks.
21. Cruelty to animals.
22. Penalty for drunkenness, or riotous or indecent behaviour in public.
23. In Calcutta and the Ports of the Straits' Settlement, passenger boats to be registered.
24. Fees on summons and subpœna. Proviso.
25. Power to Magistrates to order prisoners to be brought up to the Police Office.
26. Levy of fines.
27. Punishment for non-attendance on summons or subpœna.
28. Stray animals to be impounded and sold unless redeemed within ten days.
29. Limitation of action. Notice of action.

An Act to amend Act XIII. of 1856 *(for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.*

Whereas it is expedient to amend certain provisions of Act XIII. of 1856; It is enacted as follows:

I. The following Sections shall be read with, and taken as part of, the said Act XIII. of 1856.

Police officers taking bribes.

II. Whoever, being a member of the Police Force, or being employed in any Police Office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and, upon conviction before a Magistrate, shall be liable to a fine not exceeding 500 Rupees, or to imprisonment, with or without hard labour, for any term not exceeding six months.

Members of Police Force not to resign without leave, or six or two months' notice.

III. No member of the Police Force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a mem-

* This Act to be read as part of Act XIII., 1856, but is repealed as to Madras by M. L. C. Act VIII., 1867, Section 81.

Repealed *in toto* as to Calcutta and M ras, and from Section 11 to Section 13 as to Bombay. See Table of Repealed Ac

ber of the mounted branch of the said Force, and two months' notice if a member of any other branch; and every member of the said Force who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding 50 Rupees, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

Jurisdiction of Police Magistrate in certain cases.

IV. *Clause* 1.—Whenever in the Towns of Calcutta and Madras, or in any of the Stations of the Straits' Settlement, any person is charged before the Magistrate with having committed any of the offences mentioned in Sections 27, 28, and 29 of Act XIII. of 1856, or with having committed within the local limits of the Supreme Court or of the Courts of Judicature of such Stations, the offence mentioned in Section 5 of Act XXXI. of 1838, and by reason of the value of the property charged to have been stolen, embezzled, misapplied, or obtained or attempted to be obtained under false pretences, or for any other cause, the offence is not by law summarily cognizable by a single Magistrate, and some material witness is about to sail from the Port, it shall be lawful for two Magistrates, upon proof of the matters aforesaid, if they shall deem it probable (with reference to the time appointed for the departure of the ship or vessel in which such witness is about to sail) that the prosecution by indictment in the Supreme Court or in the Court of Judicature of the person so charged will be ineffectual in consequence of the absence of such material witness, to hear and determine the charge summarily under this Act, and, on conviction, to sentence the offender to imprisonment, with or without hard labour, for a term not exceeding twelve months, and in cases falling under the said Section 27, also to sentence such offender, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Clause 2.—In the Town of Bombay a Magistrate may commit persons charged with such offences as aforesaid for trial before the Court of Petty Sessions, and the said Court may, on conviction, sentence the offender to a like term of imprisonment or punishment.

Clause 3.—It shall be lawful for the said two Magistrates and the said Court of Petty Sessions, respectively, if they deem that the charge is from any circumstances fit to be made the subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature.

Restitution of stolen property, if forthcoming, to owner, or imposition of fine on offender.

V. Upon a conviction for any of the offences mentioned in Sections 27, 28, and 29 of Act XIII. of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner; and in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same a fine not exceeding the value of the said property, which the Magistate or Court may order to be paid to the owner or his representative.

VI. Upon a conviction for any of the offences mentioned in

Imposition of fine (in addition to punishment for the offence) to indemnify owner for loss sustained.

Sections 27, 28, and 29 of Act XIII. of 1856, and in Section 4 of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may impose upon the offender, in addition to the punishment for the offence, a fine not exceeding the loss appearing to be caused to the persons who have suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons.

Assaulting Policeman in execution of duty.

VII. Whoever assaults or resists, or aids or incites any person to assault or resist any Police Officer in the execution of his duty, shall be liable to a fine not exceeding 200 Rupees, or to imprisonment, with or without hard labour for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this Section shall commence and take effect from and after the expiration of such former sentence.

Penalty for escaping from a place of legal confinement.

VIII. Whoever escapes or attempts to escape from or out of any legal custody, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three months; and such imprisonment shall commence and take effect from and after the expiration of any sentence of imprisonment under which such persons may be confined at the time of committing the offence aforesaid.

Penalty for wilful trespass on property.

IX. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding 20 Rupees.

Magistrate may make order of maintenance for wives and children.

X. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding 50 Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner hereinafter provided for levying fines; or may order him to be imprisoned, with or without hard labour, for any term not exceeding one month: Provided, always, that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction: Provided, also, that if such person offers to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate to consider any grounds of refusal stated by such wife; and he may make the order aforesaid, notwithstanding such offer aforesaid, if he shall be satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty.

Proviso.

*XI. Whoever, in the Towns of Calcutta and Madras, has or keeps any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Ganja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police; and whoever, in the Town of Bombay, has or keeps any such Hotel, Tavern, shop, or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine, not exceeding 50 Rupees, for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shops for medicinal purposes only.

Calcutta and Madras—Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

Bombay—Penalty for keeping such house and for retailing sprits in any place without a license.

*XII. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year: Provided, always, that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Ganja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be re-called. And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of 1 Rupee. But such fee shall not interfere with the levy of any fee, tax, or duty on licenses to retail spirituous liquors in the Islands of Bombay and Colaba chargeable under Act V. of 1842.

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on Licenses.

* XIII. A breach of any of the conditions of a license granted

* Repealed, as regards the Town of Bombay, by Bom. L. C. Act IX., 1867, Section 1.

Forfeiture of licenses and fine.

under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding 100 Rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Brothels.

XIV. On proof to the satisfaction of the Commissioner of Police or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of 25 Rupees for every day thereafter that the house shall be so used.

Common gaming-houses.

XV. When any cards, dice, gaming-table, or cloth, board, or other instruments of gaming, are found in any house, room, or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants.

Taking pledge from child under the age of fourteen.

XVI. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding 100 Rupees.

Penalty for using false weights and measures.

XVII. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or any false weight, or false measure of length or capacity, shall be liable to a fine not exceneding 50 Rupees, or to imprisonment, with or without hard labour, for a term not exceeding one month; and every such false instrument, weight, or measure shall be forfeited and destroyed.

Standards of weights and measures.

Weights and measures shall be held to be false when they do not agree with standards to be kept in the Office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the Offices of the Commissioner of Police and of the Clerk of the Markets.

Power of Inspector, &c., to enter shops to seize false weights and measures

XVIII. Any Inspector or superior Officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure, or instrument for weighing

which he may have reason to believe is false. The power granted by this Section may, in Bombay, be exercised by the Clerk of the Markets.

Penalty for the following offences in public streets, &c.

XIX. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding 50 Rupees :—

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

2. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

3. Whoever drives, any vehicle of any description, at any time between three-quarters of an hour after sun-set, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

4. Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

5. Whoever exposes for show, hire, or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner.

6. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse or other animal.

7. Whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

8. Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

9. Whoever causes any cart or truck, with or without horses, or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

10. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way.

11. Whoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

12. Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

13. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil,

except at such times and places as shall be from time to time allowed by the Commissioner of Police.

14. Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road, or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police.

15. Whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.

16. Whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk, or paint, or in any way whatsoever.

17. Whoever bathes or washes himself in any public street, or in, upon, or by the side of any public tank, reservoir, or aqueduct, not being a place set apart for such purpose.

18. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.

19. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Commissioner of Police in Bombay to make rules for blasting of rocks.

XX. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Colaba; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding 100 Rupees.

Cruelty to animals.

XXI. Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured, any animal, shall, for every such offence, be liable to a fine not exceeding 100 Rupees, and in default thereof to imprisonment, with or without hard labour, for a period not exceeding three months.

Penalty for drunkenness, or riotous or indecent behaviour in public.

XXII. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police Court, Office, Station, or Section House, shall be liable to a fine not exceeding 20 Rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

In Calcutta and the Ports of the Straits' Settlement passenger boats to be registered.

XXIII. No boat shall ply for passengers in the Port of Calcutta, or in any of the Ports of the said Settlements, unless duly registered at the Police Office. The following particulars shall be entered in the Register :—

First.—Number of the boat.

Second.—Name and residence of the owner, and of the Manjee.

Third.—Number of the crew.

Fourth.—Number of persons the boat is permitted to carry.

The registration shall be in force for one year; and every change of the owner or manjee within that time shall be therein noted. A fee of 1 Rupee shall be paid on registration.

The owner or manjee of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and Vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

The owner or manjee of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding 50 Rupees.

Fee of summons and subpœna.

XXIV. For every summons issued by the Commissioner of Police or a Magistrate under this Act, there shall be paid a fee of 8 annas, and for every subpœna so issued there shall be paid a fee of 4 annas : Provided that it shall be lawful for such Commissioner or Magistrate in any case to remit such fee or fees if he shall be satisfied that the party complaining is unable to pay the same, or if the complaint is made by any Police Officer in execution of his duty.

Proviso.

Power to Magistrates to order prisoners to be brought up to the Police Office.

XXV. When any Magistate is desirous of examining any prisoner confined in a Civil or Criminal Jail or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Magistrate to issue an order addressed to the Keeper or Governor of the said Jail or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination; and the Keeper or Governor of the said Jail or House of Correction, on the receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Levy of fines.

XXVI. All fines and penalties imposed by a Magistrate of Police under the authority of this Act or of any other Act heretofore passed, or which shall hereafter be passed, if no other means for enforcing the payment of such fines and penalties are or shall be provided by such Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate. When warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it

shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and, upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labour, for any term not exceeding two months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four months where the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Punishing for non-attendance on summons or subpœna.

XXVII. When any person shall be served with a summons or subpœna under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpœna, according to the exigency thereof, he shall be liable to a fine not exceeding 20 Rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

Stray animals to be impounded and sold unless redeemed within ten days.

XXVIII. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police Officers, to seize all cattle or other animals found straying upon the roads, streets, or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of 8 annas for every goat, sheep, or hog, and 1 Rupee for every other animal together with the expenses of feeding the same while impounded according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

Limitation of action.

XXIX. *Clause* I. All actions and prosecutions against any person which may be lawfully brought for any thing done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Notice of action.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

ACT No. L. OF 1860.

1. Laws repealed.
2. Sudder Courts to prepare and publish an annual list of Holidays to be observed.

An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.

Whereas it is expedient to amend the Law relating to Vacations observed in the Civil Courts within the Presidency of Fort William in Bengal; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Sudder Courts to prepare and publish an annual list of Holidays to be observed.

II. Subject to such orders as may from time to time be issued by the Governor-General of India in Council or by the local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the Presidency or place in which each Sudder Court is held.

ACT No. LII. OF 1860.

Presidency Towns.

1. Police Magistrate may in certain cases try offences punishable under Sections 27 and 28, Act XVIII. of 1854, with imprisonment.
2. Extent of jurisdiction.
3. Construction.

An Act to amend Act XVIII. of 1854 *(relating to Railways in India).*

Whereas it is expedient to amend the law relating to offences declared to be punishable under Act XVIII. of 1854 *(relating to Railways in India)* on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay; It is enacted as follows:

Police Magistrate may in certain cases try offences punishable un-

I. If any person is charged before a Police Magistrate of a Presidency Town with committing any offence which under Section 27 or Section 28 of Act XVIII. of 1854 is punishable on conviction with imprisonment,

der Sections 27 and 28, Act XVIII. of 1854, with imprisonment.

and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six months' imprisonment, with or without hard labour.

Extent of jurisdiction.

II. The jurisdiction given to Police Magistrates under the foregoing Section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any persons hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

Construction.

III. This Act shall be taken to be, and shall be read as part of, Act XVIII. of 1854.

ACT No. III OF 1861.*

1. Duty on Pepper exported by Sea from Cochin.
2. Appropriation of Surplus Duty.

An Act to provide for the collection of Duty of Customs on Pepper exported by Sea from the British Port of Cochin.

Whereas serious affrays have occurred in attempts to smuggle Pepper, the produce of the States of Travancore and Cochin, in consequence of the monopoly which the Governments of those States maintain in that article; and whereas the Rajahs of those States are willing to abandon the said monopoly and to substitute a system of export Duty; and whereas it is necessary, in order to an effectual establishment of such system, that the same rate of Duty as is collected on the export of Pepper from Travancore and Cochin should be collected on behalf of the said States at the British Port of Cochin; It is enacted as follows:

Duty on Pepper exported by Sea from Cochin.

I. On and after the 1st day of January, 1861, in lieu of the Duty prescribed in Act X. of 1860, there shall be levied a Duty of fifteen Rupees a candy on all Pepper exported by sea from the Port of Cochin; provided that the said Duty shall not be levied on the re-exportation of any Pepper which may have been imported by sea at the said Port from any British possession.

Appropriation of surplus Duty.

II. At the close of each calendar year, or as soon after as may be convenient, the Collector of Customs shall pay to the Governments of Travancore and Cochin the whole amount of Duty collected under the Provisions of the last preceding Section, after deducting all expenses of collection, in such proportions and in such manner as may be ordered by the Governor in Council of Fort Saint George.

* Act II., 1868, is to be read with, and taken as part of, this Act.

Act No. V. of 1861.

1. Interpretation.
2. Constitution of the Force.
3. Superintendence in the local Government.
4. Inspector-General of Police, &c.
5. Inspector-General to have powers of a Magistrate. To exercise them under the orders of Government.
6. Deputy Inspectors-General, &c., may be vested with powers of a Magistrate. In what cases those powers shall be exercised.
7. Inspector-General, &c., to appoint and dismiss.
8. Police Officers to receive certificates of Office.
9. Police Officers not to resign wiithout leave or two months' notice.
10. Police Officers not to engage in other employment.
11. Repealed.
12. Inspector-General to make Rules.
13. Additional Police Officers employed at the cost of individuals.
14. Appointment of additional Force in the neighbourhood of Railway and other works.
15. Quartering of additional Police in disturbed or dangerous Districts.
16. Payment of money for support of additional Police Force.
17. Special Police Officers.
18. Powers of Special Police Officers.
19. Refusal to serve as Special Police Officers.
20. Authority to be exercised by Police Officers.
21. Village Police Officers.
22. Police Officers to be considered always on duty, and may be employed in any part of the General Police District.
23. Duties of Police Officers.
24. Police Officers may lay informations, &c.
25. Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.
26. Magistrate may detain property and issue proclamation.
27. Confiscation of property if no claimant appear.
28. Persons refusing to deliver up certificate, &c., on ceasing to be Police Officers.
29. Penalties for neglect of duty, &c.
30. Regulation of public procession, &c.
31. Police to keep order in public roads, &c.
32. Penalty for disobeying orders issued under last two Sections, &c.
33. Control of the Magistrate of the District under last three Sections.
34. Certain duties of Police Officers. Obstructions and nuisances in roads.
35. Jurisdiction. Proviso.
36. Power to prosecute not affected. Proviso.
37. Levy of forfeiture and penalties by distress.
38. Procedure until return is made to warrant of distress.
39. Imprisonment if distress not sufficient.
40. Levy of fines from European British subjects.
41. Rewards to Police and informers payable to General Police Fund.
42. Limitation of action. Tender of amends. Proviso.
43. Plea that act was done under a warrant. Proviso.
44. Police Officers to keep a Diary.
45. Local Government empowered to prescribe the form of Returns.
46. Scope of Act.
47. Authority of District Superintendent of Police over Village Police.

An Act for the Regulation of Police.

Whereas it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugant to such construction, that is to say:—

The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such executive administration is styled.

The word "Magistrate" shall include all persons within the General Police District, exercising all or any of the powers of a Magistrate.

The word "Police" shall include all persons who shall be enrolled under this Act.

The words "General Police District" shall embrace any Presidency, Province, or place, or any part of any Presidency, Province, or place, in which this Act shall be ordered to take effect.

The word "Property" shall include any moveable property, money, or valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a Company or Corporation.

The word "month" shall mean a calendar month.

The word "cattle" shall, besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Sheep, Goats, and Swine.

Constitution of the Force.

II. The entire Police establishment under a local Government shall, for the purposes of this Act, be deemed to be one Police Force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such Force shall receive such pay, as shall from time to time be ordered by the local Government, subject to the sanction of the Governor-General of India in Council.

Superintendence in the local Goverment.

III. The superintendence of the Police throughout a General Police District shall vest in, and, subject to the general control of the Governor-General of India in Council, shall be exercised by the local Government to which such District is subordinate; and, except as authorized under the provisions of this Act, no person, Officer, or Court shall be empowered by the local Government to appoint, supersede, or control any Police functionary.

Inspector-General of Police, &c.

* IV. The administration of the Police throughout a General Police District shall be vested in an Officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General and Assistant Inspectors-General as to the local Government shall seem fit. The administration of the Police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the local Government shall consider necessary. The Inspector-General and other Officers above-mentioned shall from time to time be appointed by the local Government, and may be removed by the same authority.

Inspector-General to have powers of a Magistrate. To exercise them under the orders of Government.

V. The Inspector-General of Police shall have the full powers of a Magistrate throughout the General Police District; but shall exercise those powers subject to such limitation as may from time to time be imposed by the local Government.

Deputy Inspectors-General, &c., may be vested with powers of a Magistrate.

In what cases those powers shall be exercised.

VI. The local Government may vest any Deputy Inspector-General, Assistant Inspector-General, District Superintendent, or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper; but such Officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the

* Notification No. 103, dated 3rd March, 1868, was partially cancelled by G. O. No. 349.—See *Gazette of India*, 12th June, 1869, p. 18.

prevention of crime, and the detection, apprehension, and detention of offenders in order to their being brought before a Magistrate, and, so far as may be necessary, for the performance of the duties assigned to them by this Act.

Inspector-General, &c., to appoint and dismiss.

VII. The appointment of all Police Officers other than those mentioned in Section 4 of this Act shall, under such rules as the local Government shall from time to time sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General, and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same, or fine any Police Officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Police Officers to receive certificates of Office.

VIII. Every Police Officer, so appointed, shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other Officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions, and privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the Police Force, and shall be immediately surrendered to the Superior Officer of such person or to some other Officer empowered to receive the same.

Police Officers not to resign without leave or two months' notice.

IX. No Police Officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent, or by some other Officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his Office unless he shall have given to his Superior Officer notice in writing, for a period of not less than two months, of his intention to resign.

Police Officers not to engage in other employment.

X. No Police Officer shall engage in any employment or Office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

XI. *Repealed by Act X.*, 1869, *Section* 1.

Inspector-General to make Rules.

XII. The Inspector-General of Police may, from time to time, subject to the approval of the local Government, frame such orders and rules as he shall deem expedient, relative to the organization, classification, and distribution of the Police Force, the places at which the Members of the Force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police Force as the Inspector-General shall from time to time deem expedient for preventing abuse or neglect of duty, and for rendering such Force efficient in the discharge of its duties.

Additional Police Officers employed at the cost of individuals.

XIII. It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General, or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the District, on the application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police District, and for such time as shall be deemed proper. Such Force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application: Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the Police Officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Appointment of additional Force in the neighbourhood of Railway and other works.

XIV. Whenever any Railway, Canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the employment of an additional Police Force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory, or concern, it shall be lawful for the Inspector-General, with the consent of the local Government, to depute such additional Force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the Funds used in carrying on such work, manufactory, or concern, for the payment of the extra Force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous Districts.

XV. It shall be lawful for the Inspector-General of Police, with the sanction of the local Government, to be notified by proclamation in the Government Gazette, and in such other manner as the local Government shall direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any part of the General Police District which shall be found to be in a disturbed or dangerous state, or in any part of the General Police District in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of Police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional Police Force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional Police Force.

XVI. All monies payable under the last three preceding Sections, on account of any additional Police Force employed as therein directed, shall be recoverable under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the District of such Magistrate, or by suit in any competent Court; and the monies paid on this account or so recovered shall be credited to a Fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the local Government shall pass.

Special Police Officers.

XVII. When it shall appear that any unlawful assembly, or riot, or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police Force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants, and the security of property in the place where such unlawful assembly, or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police Officer, not below the rank of Inspector, to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police Officer may require to act as special Police Officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Powers of Special Police Officers.

XVIII. Every Special Police Officer so appointed shall have the same powers, privileges, and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary Officers of Police.

Refusal to serve as Special Police Officers.

XIX. If any person being appointed a Special Police Officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding 50 Rupees for every such neglect, refusal, or disobedience.

Authority to be exercised by Police Officers.

XX. Police Officers, enrolled under this Act, shall not exercise any authority, except the authority provided for a Police Officer under this Act, and any Act which shall hereafter be passed for regulating Crimnal Procedure.

Village Police Officers.

XXI. Nothing in this Act shall affect any Hereditary or other Village Police Officer, unless such officer shall be enrolled as a Police Officer under this Act. When so enrolled such officer shall be bound by the provisions of the last preceding Section. No Hereditary or other Village Police Officer shall be enrolled without his consent and the consent of those who have the right of nomination. If any Police Officer appointed under Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazars in the Presidency of Fort William in Bengal*) is employed out of the District for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that District.

Police Officers to be considered always on duty, and may be employed in any part of the General Police District.

XXII. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police Officer in any part of the General Police District.

Duties of Police Officers.

XXIII. It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to

detect and bring offenders to justice; and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police Officer, for any of the purposes mentioned in this Section, without a warrant, to enter and inspect any drinking shop, gaming house, or other place of resort of loose and disorderly characters.

Police Officer may lay informations, &c.

XXIV. It shall be lawful for any Police Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant, or such other legal process as may by law issue against any person committing an offence, and to prosecute such person up to final judgment.

Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.

XXV. It shall be the duty of every Police Officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District. The Police Officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

Magistrate may detain property and issue proclamation.

XXVI. The Magistrate of the District may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Confiscation of property if no claimant appear.

XXVII. If no person shall within the period allowed claim such property, it may be sold under the orders of the Magistrate of the District, and the proceeds shall be at the disposal of Government.

Persons refusing to deliver up certificate, &c., on ceasing to be Police Officers.

XXVIII. Every person, having ceased to be an enrolled Police Officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments, and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding 200 Rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both.

Penalties for neglect of duty, &c.

XXIX. Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority; or who shall withdraw from the duties of his Office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his Police duty; or who shall be guilty of cowardice; or who shall offer any unwarrantable personal violence to any person in his custody—shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

Regulation of public processions, &c.

XXX. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets, or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Police to keep order in public roads, &c.

XXXI. It shall be the duty of the Police to keep order on the public roads; and in the public streets, thoroughfares, ghauts, and landing places, and at all other places of public resort, and to prevent obstruction on the occasions of assemblies and processions on the public roads and in the public streets or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut, or landing place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last two Sections, &c.

XXXII. Every person opposing, or not obeying the orders issued under the last two preceding Sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music; or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding 200 Rupees.

Control of the Magistrate of the District under last three Sections.

XXXIII. Nothing in the last three preceding Sections shall be deemed to interfere with the general control of the Magistrate referred to therein.

Certain duties of Police Officers.

*XXXIV. Any person who, on any road or in any street or thoroughfare within the limits of any Town to which this Section shall be specially extended by the local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding 50 Rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any Police Officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :—

Obstructions and nuisances in roads.

First.—Any person who slaughters any cattle or cleans any carcase; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle.

Second.—Any person who wantonly or cruelly beats, abuses, or tortures any animal.

Third.—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading, or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Fourth.—Any person who exposes any goods for sale.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cowshed, stable, or the like, or who causes any offensive matter to run from any house, factory, dungheaps, or the like.

Sixth.—Any person who is found drunk or riotous, or who is incapable of taking care of himself.

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* Extended to the Town of Chandoor, in the Hyderabad Assigned Districts, by Order No. 5618, *Gazette of India*, 19th October, 1867, p. 1436. Declared specially applicable to the town of Bangalore. See Government Order, 6th May, 1869, *Gazette of India*, 8th May, 1869, p. 938. And to the town of Duriapore, in the Hyderabad Assigned Territory, by G. O., No. 560 in *Gazette of India*, 5th September, 1868, p. 1387. Extended to the town of Budneira, in the Hyderabad Assigned Territory, by G. O. No. 722 in *Gazette of India*, 19th December, 1868, p. 1833.

Seventh.—Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

Eighth.—Any person who neglects to fence in, or duly to protect any well, tank, or other dangerous place or structure.

Jurisdiction.

XXXV. In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict: Provided that any charge against a Police Officer above the rank of a Constable under this Act shall be enquired into and determined only by an Officer exercising the powers of a Magistrate.

Proviso.

Power to prosecute not affected.

XXXVI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Proviso.

Levy of forfeiture and penalties by distress.

XXXVII. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order.

Procedure until return is made to warrant of distress.

XXXVIII. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

XXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XL. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if

any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to Police and informers payable to General Police Fund.

XLI. All sums paid for the service of process by Police Officers, and all rewards, forfeitures, and penalties or shares of rewards, forfeitures, and penalties which by law are payable to informers, shall, when the information is laid by a Police Officer, be paid into the General Police Fund.

Limitation of action.

XLII. All actions and prosecutions against any person, which may be lawfully brought for any thing done or intended to be done under the provisions of this Act, or under the general Police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the District in which the act was committed, one month at least before the commencement of the action.

Tender of amends.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action:

Proviso.

Provided, always, that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Plea that act was done under a warrant.

XLIII. When any action or prosecution shall be brought or any proceedings held against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine: Provided, always, that any remedy which the party may have against the authority issuing such warrant shall not be affected by any thing contained in this Section.

Proviso.

Police Officers to keep a Diary.

XLIV. It shall be the duty of every Officer in charge of a Police Station to keep a General Diary in such form as shall from time to time be prescribed by the local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined. The Magistrate of the District shall be at liberty to call for and inspect such Diary.

Local Government empowered to prescribe the form of Returns.

XLV. The local Government may direct the submission of such Returns by the Inspector-General and other Police Officers as to such local Government shall seem proper, and may prescribe the form in which such Returns shall be made.

Scope of Act.

*XLVI. This Act shall not take effect in any Presidency, Province, or place, unless the same shall be extended to such Presidency, Province, or place by the Governor-General of India in Council by an order to be published in the *Government Gazette.* When the Act shall have been so extended it shall be carried into effect in such Presidency, Province, or place as the local Government, by an order to be published in the *Official Gazette*, shall direct.

Authority of District Superintendent of Police over Village Police.

XLVII. It shall be lawful for the local Government, in carrying this Act into effect in any part of the territories subject to such local Government, to declare that any authority which now is or may be exercised by the Magistrate of the District over any Village Watchman or other Village Police Officer for the purposes of Police, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police.

FORM.—(*See Section* 8.)

A. B. has been appointed a Member of the Police Force under Act V. of 1861, and is vested with the powers, functions, and privileges of a Police Officer.

ACT No. IX. OF 1861.

1. Application.
2. Production, and temporary custody and protection of minor.
3. Court, after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.
4. Procedure.
5. Appeal.
6. Orders passed under this Act not liable to be contested in a regular suit.
7. Saving of laws.
8. Interpretation.

An Act to amend the law relating to Minors.

Whereas it is expedient to amend the Law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows:

Application.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition, either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the petitioner, or his agent if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

* Provisions of this Act extended to the tract transferred by various States to the British Government for the use of the Allahabad and Jubbulpore Railway, by order No. 205, *Gazette of India*, 2nd November, 1867, p. 1500.

Production, and temporary custody and protection of minor.

II. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Court, after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.

III. On the day appointed for the hearing of the petition, or as soon after as may be practicable, the Court shall hear the statements of the parties, or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

Procedure.

IV. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII. of 1859 *(for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter,)* in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

Appeal.

V. An appeal shall lie to the Sudder Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sudder Courts.

Orders passed under this Act not liable to be contested in a regular suit.

VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

Saving of laws.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI. of 1855 *(for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George)*, Act XL. of 1858 *(for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.)*

Interpretation.

VIII. The term "Sudder Court" in this Act shall denote the Highest Court of Appeal in any part of the British territories in India.

Act No. XIV. of 1861.

1. Certain tracts removed from the jurisdiction and procedure of the ordinary tribunals. Proviso.
2, 3. Repealed.
4. Reference to the Sudder Court.
5. Place of imprisonment or transportation.
6, 7. Repealed.

An Act to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the General Regulations and Acts.

Whereas it is expedient to remove certain tracts of country in the Rohilcund Division from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that Division, under the

General Regulations and Acts of the Government; It is enacted as follows:

Certain tracts removed from the jurisdiction and procedure of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act, and such parts of the Pergunnahs Juspoor and Kashepoor in the District of Mooradabad as shall be declared and defined by the Lieutenant-Governor of the North-Western Provinces, by an order to be published in the manner prescribed by Section 7 of this Act on or before the date fixed by the said Lieutenant-Governor under the said Section 7 for this Act to take effect, are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid, and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tracts, unless the same be specially named therein: Provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. and III. *Proposed to be repealed by Bill No. VIII.*, 1870.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of the North-Western Provinces to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

V. Any person liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant-Governor of the North-Western Provinces may direct.

VI. *Proposed to be repealed by Bill No. VIII.*, 1870.

VII. *Repealed by the Repealing Act XIV.*, 1870.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

The Pergunnah of Bazpoor in the District of Mooradabad.

The Pergunnahs of Roodurpoor and Guddurpoor in the District of Bareilly.

The Pergunnahs of Kilpooree, Nanuk-Muttha, and Bilheree in the District of Peelebheet.

Act No. XVI. of 1861.

1. Definition of Stage Carriage.
2. Grant of licenses.
3. Refusal of license. Particulars of license.
4. Charge for, and duration of, license.
5. Number of license, &c., to be painted on conspicuous part of carriage.
6. Penalty for letting carriage for hire without having the number, &c., painted on it.
7. Penalty for letting for hire unlicensed carriage.
8. Penalty for carriage drawn by less number of animals, or carrying a greater number of passengers, &c., than is provided by the license
9. Penalty for ill-treating animals.
10. Revocation of license.
11. Penalty for not conforming to provisions of Section 5.
12. Penalty for misconduct on part of drivers.
13. Penalty in certain cases recoverable from proprietor. Proviso.
14. Issue of summons
15. Adjudication of penalties.
16. Recovery of penalties, &c.
17. Offender may be apprehended and detained in custody until return of warrant of distress.
18. Imprisonment of offender if distress not sufficient.
19. Recovery of penalty and costs from European British subjects.
20. Jurisdiction.
21. Interpretation. " Magistrate. " " British India. " " Horse. " Number. Gender.
22. Repealed.

An Act for licensing and regulating Stage Carriages.

Whereas it is expedient to license and to regulate Stage Carriages in British India; It is enacted as follows:

Definition of Stage Carriage.

I. Every carriage drawn by one or more horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall, without regard to the form or construction of such carriage, be deemed to be a Stage Carriage within the meaning of this Act: Provided that this Act shall not apply to carriages not ordinarily used for journies of a greater distance than twenty miles.

Grant of licenses.

II. No carriage shall be used as a Stage Carriage unless licensed by a Magistrate or by the Chief Commissioner of Police of a Presidency Town.

Refusal of license.

III. The Magistrate or Chief Commissioner of Police to whom the application for a license of a Stage Carriage is made, may refuse to license the same, if he shall be of opinion that such Stage Carriage is unserviceable or is unsafe or unfit for public accommodation or use. If a Magistrate or Chief Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the Stage Carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Particulars of license.

Charge for, and duration of, license.

IV. For every such license there shall be paid by the proprietor of the Stage Carriage the sum of 5 Rupees, and such license shall be in force for one year from the date thereof. When a licensed Stage Carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Number of license, &c., to be painted on

V. On any Stage Carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly paint-

conspicuous part of carriage.

ed in the English language and character upon a conspicuous part of such Stage Carriage.

Penalty for letting carriage for hire without having the number, &c, printed on it.

VI. The proprietor of any licensed Stage Carriage who shall let such Stage Carriage for hire without the particulars specified in Section 3 being painted on such carriage in the manner directed in the last preceding Section, shall be liable to a fine not exceeding 100 Rupees.

Penalty for letting for hire unlicensed carriage.

VII. Whoever lets for hire any Stage Carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees.

Penalty for carriage drawn by less number of animals, or carrying a greater number of passengers, &c., than is provided by the license.

VIII. Any proprietor, or agent of a proprietor, or any driver of a licensed Stage Carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers or a greater weight of luggage to be carried by such Stage Carriage, than shall be provided by the license, shall be liable, on a first conviction, to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees. In every case where such Stage Carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers, or a greater weight of luggage, than shall be provided by thelicense, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

Penalty for ill-treating animals.

IX. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any horse employed in drawing or harnessed to any Stage Carriage, or who shall harness to, or drive in, any Stage Carriage any horse which, from sickness, age, wounds, or other cause, is unfit to be driven in such Stage Carriage, shall for every such offence be liable to a fine not exceeding 100 Rupees.

Revocation of license.

X. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any Stage Carriage shall ply, or who has granted the license of any Stage Carriage, may cancel the license of such Stage Carriage, if it shall appear to him that such Stage Carriage, or any horse or any harness used with such carriage, is unserviceable or unsafe or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of Section 5.

XI. In any station or place in which a Magistrate shall reside and be, any Police Officer may, in any place within two miles of the Office of such Magistrate, seize any Stage Carriage with the horse harnessed thereto, if the full particulars of the license of such Stage Carriage be not distinctly painted on such Stage Carriage in the manner provided in Section 5 of this Act. Such Carriage with the horse harnessed thereto shall be taken without delay by such Police Officer

before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such Police Officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such Stage Carriage and horse shall be immediately released; and if such fine be not paid, such Stage Carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse: and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State. If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

Penalty for misconduct on part of drivers.

XII. If any driver of any Stage Carriage, or any other person having the care thereof, shall through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such Stage Carriage or of any other person, every such person so offending shall be liable to a fine not exceeding 100 Rupees.

Penalty in certain cases recoverable from proprietor.

XIII. Whenever the driver of any Stage Carriage, or the owner of any horse employed in drawing any Stage Carriage, shall have committed any offence against this Act, for the commission whereof any penalty is by this Act imposed, other than an offence specified in Section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed:

Proviso.

Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Issue of Summons.

XIV. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a Stage Carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter post, which shall be deemed to be good service thereof. The letter shall be registered at the Post Office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case. The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

Adjudication of penalties.

XV. All penalties incurred under this Act shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

Recovery of penalties, &c.

XVI. All penalties imposed under this Act, or any balance of any fine, costs, or charges as mentioned in Section 11 of this Act, may in case of non-payment or non-recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

Offender may be apprehended and detained in custody until return of warrant of of distress.

XVII. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender if distress not sufficient.

XVIII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Recovery of penalty and costs from European British subjects.

XIX. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Jurisdiction.

XX. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other Officer.

Interpretation. Magistrate.

XXI. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate.

The term "British India" in this Act shall denote the Territories that are or shall be vested in Her Majesty by the Statute 21 and 22, Vict., chap. 106, entitled "An Act for the better Government of India."

The term "Horse" shall include ponies and mules.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include the feminine.

XXII. *Repealed by the Repealing Act XIV.*, 1870.

Act No. XVII. of 1861.

1. Rate of Duty to be charged on the exportation of Sugar from 9th March, 1861.
2. New Duty to be collected under Act XIV. of 1843.
3. Repealed.

An Act to amend Act XIV. of 1843, *(for regulating the Customs Duties in the North-Western Provinces.*

Whereas it is expedient to amend the law relating to Customs Duties, so far as relates to the Export Duty on Sugar or other saccharine produce, in the North-Western Provinces; It is enacted as follows:

Rate of Duty to be charged on the exportation of Sugar from 9th March, 1861.

I. From and after the 9th day of March, 1861, in lieu of the Duty on Sugar and other saccharine produce, exported from the North-Western Provinces, authorized to be charged under Act XIV. of 1843, *(for regulating the Customs Duties in the North-Western Provinces)*, there shall be collected and paid the following Duty, that is to say:—

On the export of Misree, Kund, Cheenee, and all clayed and refined Sugar, 1 Rupee per maund.

On the export of Goor, Rab, Sheerah, and all unclayed and unrefined saccharine produce, 6 annas per maund.

New Duty to be collected under Act XIV. of 1843.

II. The said new Duty shall be collected and paid under the provisions of the said Act XIV. of 1843, in the same manner as if the said new Duty had been imposed thereby.

III. *Repealed by the Repealing Act XIV.*, 1870.

Act No. XIX. of 1861.

1. Repealed.
2. No Body Corporate or person to issue Notes, &c., payable to bearer on demand. Exception in favor of Cheques.
3. Department of Issue to be established.
4. Head Commissioner and Commissioners to be appointed.
5. Power to Governor-General in Council to establish Circles of Issue.
6. Deputy Commissioners to be appointed.
7. Commissioners to be subordinate to Head Commissioner. Deputy Commissioners to Commissioner.
8. Notes to be prepared by Head Commissioner and distributed by him. Where payable.
9. When such Notes may be issued. Proviso.
10. The whole amount, of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount not exceeding four crores of rupees, to be fixed as the minimum limit of circulation.
11. In what names the Government Securities to stand.
12. Rules to be framed for keeping and auditing the Accounts.
13. Abstract of accounts to be published.
14. Securities to be disposed of when necessary.
15. Interest of Securities to be paid to the credit of Government.
16. Notes where legal tender.
17. Name of Head Commissioner, &c., may be impressed with machinery.
18. Notes may be described as Promissory Notes.
19. Penalty for issuing such Notes contrary to provisions of this Act.
20. Definition of "British India."

An Act to provide for a Government Paper Currency.

Whereas it is expedient to provide for the issue by the Government of India of Promissory Notes payable to bearer on demand, and to re-

gulate the mode of issuing and securing payment of the same; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

No Body Corporate or person to issue Notes, &c., payable to bearer on demand.

II. No Body Corporate, person or persons whatsoever, in British India, except as hereinafter provided, shall draw, accept, make, or issue any Bill of Exchange or Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes payable to bearer on demand of any such Body Corporate, or of any such person or persons: Provided that Cheques or Drafts payable to bearer on demand or otherwise may be drawn on Bankers, Shroffs, or Agents by the customers or constituents of such Bankers, Shroffs or Agents, in respect of deposits of money in the hands of such Bankers, Shroffs, or Agents, and held by them at the credit and disposal of the persons drawing such Cheques or Drafts.

Exception in favor of Cheques.

Department of Issue to be established.

III. There shall be established by the Governor-General of India in Council a department of the public service, to be called the Department of Issue, either in connection with the Mints or otherwise, and from and after the passing of this Act there may be issued from the said Department, as hereinafter provided, Promissory Notes of the Government of India payable to bearer on demand, for such sums, not being less than 10 Rupees, as the Governor-General of India in Council shall from time to time direct.

Head Commissioner and Commissioners to be appointed.

IV. The Governor-General in Council, after the passing of this Act, shall appoint some person, to be called the Head Commissioner of the Department of Issue, and two other persons, who shall be called respectively the Commissioners of the Department of Issue, at Madras and Bombay, and it shall be lawful for the Governor-General of India in Council from time to time, by Rules to be published in the Gazettes of Calcutta, Madras, and Bombay, to make such arrangements through any Officers of Government or with any persons, Banks, or Bodies Corporate, either at Calcutta, Madras, and Bombay or elsewhere, as may be required to regulate and facilitate the issue and payment, under the provisions of this Act, of Promissory Notes of the Government of India, of such denominations as shall be prescribed under the last foregoing Section, not being for any less sum than 10 Rupees.

Power to Governor-General in Council to establish Circles of Issue.

V. It shall be lawful for the Governor-General of India in Council from time to time, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, to establish in British India, Districts to be called "Circles of Issue," three of which Circles shall include the Towns of Calcutta, Madras, and Bombay respectively, and in each Circle to appoint some one city or town to be the place of Issue of Notes, as hereinafter provided. It shall be lawful for the Governor-General of India in Council, by an order to be published as aforesaid, from time to time, to alter or extend the limits of the said Circles or any of them. Promissory Notes of the Government of India may be issued in the several Circles of Issue as hereinafter provided.

Deputy Commissioners to be appointed.

VI. For each Circle of Issue other than those which include the Towns of Calcutta, Madras, and Bombay, there shall be appointed by the Governor-General in Council an Officer of the Government or other person to be called the Deputy Commissioner of Issue. In any Circle of Issue there may be also established an Agency or Agencies of Issue in connection with a Bank or otherwise.

Commissioners to be subordinate to Head Commissioner. Deputy Commissioners to Commissioner.

VII. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner; the Deputy Commissioners and Agents in the Presidency of Fort William in Bengal, shall be subordinate to the Head Commissioner, and the Deputy Commissioners and Agents in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay, respectively.

Notes to be prepared by Head Commissioner and distributed by him.

* VIII. The Head Commissioner of Issue for the time being shall provide, on paper to be specially manufactured for the purpose, Promissory Notes of the Government of India payable to bearer on demand, of the denominations which shall be from time to time prescribed under Section 3 of this Act, and shall supply, or cause to be supplied, to the Commissioners at Madras and Bombay, and to the several Deputy Commissioners and Agents, such Notes as they shall require for the purposes of this Act, and all Notes shall bear upon them the name of the city or town from which they are severally issued, and shall be payable only at the Office or Offices or Agencies of Issue of such city or town, and at the Presidency Town of the Presidency within which such city or town is situated.

Where payable.

When such Notes may be issued.

IX. The Head Commissioner, the Commissioners, and the Deputy Commissioners and Agents shall, in their respective "Circles of Issue," on the demand of any person, issue from such Office or Offices or Agencies of Issue as shall be established in the appointed city or town in their respective Circles, Promissory Notes of such denominations as shall be prescribed under Section 3, not being for any less sum than 10 Rupees, on the terms following:—

First, in exchange for the amount thereof in current silver coin of the Government of India;

Or, *secondly*, in exchange for the amount thereof in standard silver bullion or foreign silver coin computed according to such standard, at the rate of 979 Rupees per 1,000 tolahs of standard silver fit for coinage:

Proviso.

Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall in all cases be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same † and provided also that in all places where there is no Mint of the Government of India, it shall be optional for any such Head Commissioner, Commissioners, Deputy Commissioners, and Agents to issue Notes in exchange for silver or foreign coin under this Section;

* By Act XXX., 1867, Section 1, power is given to the Governor-General of India in Council to transfer for the purposes of this Act any town from one Presidency to another.

† Amended by Act I., 1866.

Or, *thirdly*, in exchange for other Notes of the Government of India payable to bearer on demand of other amounts issued within the same Circle.

Provided, also, that it shall be lawful for the Governor-General in Council from time to time to direct, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, that Notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices or Agencies of Issue as may be named in the order in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion computed at such rates and according to such rules and conditions as shall be fixed by such order, and which rates, rules, and conditions shall not be altered without six months' previous notice. Whenever such order shall be issued, the Head Commissioner, Commissioners, Deputy Commissioners, and Agents, at the Offices or Agencies specified in the order, shall be bound to issue Notes on demand in conformity with such order.

The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount, not exceeding 4 crores of Rupees, to be fixed as the maximum limit of circulation.

* X. The whole amount of the bullion and coin so received for Notes shall be retained and secured as a reserve to pay such Notes, with the exception of such an amount, not exceeding four crores of Rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, shall from time to time fix. The amount so fixed shall be published in the Gazettes of Calcutta, Madras, and Bombay, and shall be invested in Government Securities, and the said coin, bullion, and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said Notes; and the said Notes shall be deemed to have been issued on the security of the coin, bullion, and securities so appropriated and set apart, as well as on the general credit of the Government: Provided that any gold coin or bullion which may be received under this Act, may be sold or exchanged for silver coin or bullion to be so appropriated and set apart, instead of the gold coin or bullion.

In what names the Government Securities to stand.

XI. The Government Securities purchased under this Act in the Presidency of Fort William in Bengal shall stand in the name of the Head Commissioner and the Master of the Mint at Calcutta; the Government Securities purchased under this Act in the Presidency of Fort St. George shall stand in the name of the Commissioner at Madras and the Master of the Mint at Madras; and the Government Securities purchased under this Act in the Presidency of Bombay shall stand in the name of the Commissioner at Bombay and the Master of the Mint at Bombay: Provided that if the Head Commissioner or Commissioner in any case be the Master of the Mint, the Governor-General in Council shall appoint another Trustee or Trustees in addition to the Master of the Mint.

XII. The Head Commissioner from time to time shall frame Rules,

* This Section is to be read as if the words "six crores" were substituted in it for the words "four crores." See Act XV., 1870, Section 2.

Rules to be framed for keeping and auditing the Accounts.

to be approved by the Governor-General of India in Council, for keeping the accounts of the said Department of Issue, and for the auditing of such accounts, and for otherwise regulating the business of the Department; provided that such Rules shall be in no wise inconsistent with the provisions of this Act.

Abstract of accounts to be published.

XIII. An Abstract of the accounts of the Department, showing the whole amount of Notes in circulation, the amount of coin and bullion reserved, distinguishing gold from silver, and the amount of the Government Securities held by the said Department, shall be made up monthly in Calcutta, and published as soon may be in the Gazettes of Calcutta, Madras, and Bombay.

Securities to be disposed of when necessary.

XIV. It shall be lawful for the Head Commissioner in respect of the Presidency of Fort William in Bengal, and for the Commissioner at Madras and Bombay in respect of the Presidencies of Madras and Bombay, respectively, at any time when they shall be ordered so to do by the Governor-General of India in Council, to sell and dispose of any portion of the abovementioned limited amount of Government Securities standing in their names respectively, and in the names of the Masters of the Mint or Trustees as aforesaid; and for the purpose of effecting such sales, the said Masters of the Mint or Trustees respectively shall, on a request in writing from the said Head Commissioner or Commissioners in their respective Presidencies, at all times sign and endorse such Government Securities as shall stand in their names respectively, and it shall be lawful for the said Head Commissioner or Commissioners, if directed by the Governor-General of India in Council, to purchase Government Securities to replace their sales.

Interest of Securities to be paid to the credit of Government.

XV. The interest accruing due on the Government Securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor-General of India in Council; and the amount of such interest shall, from time to time, as it becomes due, be paid by the Accountants-General in the several Presidencies of India, into the revenues of the Government of India, under the head of "Profits of Notes Circulation;" and an account showing the amount of profits of the Note circulation and of the charges and expenses incidental thereto, shall be made up and published annually in the Gazettes of Calcutta, Madras, and Bombay.

Notes where tender.

XVI. Within any of the "Circles of Issue," as hereinbefore provided, a tender of a Note or Notes issued under this Act from any Office or Agency of Issue of such "Circle of Issue," shall be a legal tender to the amount expressed in such Note or Notes, and shall be taken to be valid as a tender to such amount in payment of any revenue or other claim to the amount of 10 Rupees and upwards due to the Government of India, and in payment of any sum of 10 Rupees and upwards due by the Government of India, or by any Body Corporate, or by any person or persons in British India, on all occasions whatsoever on which any tender of money can be legally made: Provided that no such Note or

Notes shall be deemed to be a legal tender of payment by the Government of India at any Office or at the Issue Department of any Agency of Issue.

Name of Head Commissioner, &c., may be impressed with machinery.

XVII. The name of the Head Commissioner, of either of the Commissioners, of any Deputy Commissioner, or of any other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign Notes issued under this Act, may be impressed or affixed by machinery provided for that purpose by the Government of India, and such printed names shall be taken to be good and valid signatures to all intents and purposes, as if such Notes had been subscribed in the proper handwriting of any one of the persons aforesaid, whose signatures the said printing purports to represent.

Notes may be described as Promissory Notes.

XVIII. All Notes issued under this Act shall be deemed and taken to be Promissory Notes of the Government of India, and may and shall be described as Promissory Notes of the Government of India in all indictments, and in Criminal and Civil proceedings, any law or usage to the contrary notwithstanding.

Penalty for issuing such Notes contrary to provisions of this Act.

XIX. If any Body Corporate or person, after the passing of this Act, shall, contrary to the provisions of this Act, draw, accept, make, or issue any Bill of Exchange, Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes or engagements for the payment of money payable to bearer on demand of any such Body Corporate or person, such Body Corporate or person shall be liable to a penalty to the amount of every such Bill of Exchange, Promissory Note, or engagement for the payment of money, to be recovered on the prosecution of the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the "Circle of Issue," in which such Bill of Exchange, Promissory Note, or engagement for the payment of money is issued, before any Police Magistrate or Magistrate within such "Circle of Issue," and in case of conviction, and default of payment of such penalty, the Police Magistrate or Magistrate who shall try the case shall issue his warrant to levy the amount thereof, together with the reasonable costs of the prosecution, by distress and sale of the goods and chattels of the Body Corporate or person so convicted.

Definition of "British India."

XX. The words "British India" in this Act shall denote the Territories that are or may be vested in Her Majesty by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Act No. XXII. of 1861.

I.—V. *Repealed by Act XVII.*, 1862.

VI. The power of seizing or causing to be seized any cattle trespassing on, or doing damage to, any land or to any crop or produce thereon, conferred by Section 2 of the said Act III. of 1857, may be exercised, subject to the provisions of the said Act, by any person who has given cash advances for the cultivation of the crop or produce on such land, or to whom such crop or produce shall have been sold or mortgaged.

Power of seizing cattle.

Act No. XXIII. of 1861.*

1. Repealed.
2. Cost of serving process. Requisite sum to be paid into Court within a certain time before process is issued.
3. Plaint to be returned, if it appear to the Court that it has not jurisdiction.
4. In what Court a suit against several defendants may be brought.
5. Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.
6. Provisions of last Section to apply to appeals also.
7. Procedure in case of dismissal of suit under Section 5.
8. Procedure on application for discharge by a person arrested in execution of a decree for money.
9. Court may of its own accord summon witnesses.
10. In suits for money, decree may order certain interest to be paid on the principal sum adjudged.
11. How questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees, &c., are to be determined.
12. Appeals from orders rejected under Section 364. Act VIII. of 1859, may be admitted on application Application to be on stamp paper.
13. In suits of the nature and amount cognizable by Small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution either against the person or property of judgment-debtor.
14. Co-sharer of a share of a Putteedaree Estate sold in execution of decree may claim to take the share at the sale price. Proviso.
15. Procedure on receiving application for execution of decree.
16. Procedure when certain offences under Chapter XI. of the Penal Code are committed in any case pending before any Court.
17. Court may take bail and bind over witnesses to give evidence.
18. How the charge is to be framed.
19. Procedure in case of certain offences relating to documents.
20. Procedure in case person accused under Section 16 or 19 is a European British subject.
21. Procedure in certain cases of contempt.
22. Discharge of an offender on his submission.
23. Appeal to lie from all decrees, except when expressly prohibited. Appeal to Sudder Court to be heard by two or more Judges.
24. Procedure in case of application by sureties to be discharged.
25. Application for the admission of a special appeal informally drawn up, how to be dealt with.
26. No appeal from order or decision under Section 15, Act XIV. of 1859.
27. No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.
28. Reference of question to the Sudder.
29. Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.
30. Two or more Judges of Sudder Court to decide cases referred under Section 28.
31. Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.
32. Parties may appear and be heard in person or by pleader.
33. Decision of Sudder Court how to be transmitted.
34. Costs of reference to Sudder Court.
35. Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.
36. Security may be taken when execution is required of a decree which has been appealed against.
37. Appellate Court to have same powers as Courts of original jurisdiction.
38. Procedure prescribed by Act VIII. of 1859, to be followed in all future miscellaneous cases and proceedings.
39. Extension of Act to Non-Regulation Provinces.
40. Sudder Court to make general rules for regulating proceedings, &c.
41. Interpretation of "Pleader."
42. Short Title.
43. Repealed.
44. Construction.

An Act to amend Act VIII. of 1859, *(for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.)*

Whereas it is expedient to amend Act VIII. of 1859, *(for simplifying the Procedure of the Courts of Civil Judicature not established by*

*. Extended, with the exception of certain Sections, to the territories of Mysore. See G. O., *Gazette of India*, March 27th, 1869, No. 47, p. 792.

Royal Charter), and to consolidate the Acts previously passed for the amendment of the said Act; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Cost of serving process.

II. Every process required to be issued under Act VIII. of 1859 shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the costs of such service shall be paid into the Court before the process is issued, within a period to be fixed by the Court issuing the process.

Requisite sum to be paid into Court within a certain time before process is issued.

III. If it appear to the Court in any case relating to land or other immoveable property that such land or other property is not situate within the limits of the jurisdiction of the Court, or in any other case that the cause of action did not arise, and that the defendant is not dwelling or personally working for gain, within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

IV. If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sudder Court, may order that the suit be heard in any Court subordinate to such Sudder or District Court, and competent in respect of the value of the suit to try the same.

In what Court a suit against several defendants may be brought.

V. If, on the day fixed for the defendant to appear and answer to a suit, it shall be found that the summons to the defendant has not been served in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing the summons, the Court may order that the suit be dismissed: Provided that no such order shall be passed, although the summons shall not have been served upon the defendant, if on the day fixed for the defendant to appear and answer he shall have entered an appearance by a pleader, or by a duly authorized agent when he is allowed to appear by agent, or shall be in attendance in person.

Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

Provisions of last Section to apply to appeals also.

VI. The provisions of the last preceding Section shall apply to appeals also.

VII. Whenever a suit is dismissed under the provisions of Section 5 of this Act, the plaintiff shall be at liberty to institute a fresh suit, unless precluded by the rules for the limitation of actions, or if the plaintiff shall satisfy the Court, within the period of thirty days from the date of the order dismissing the suit, that there was a sufficient excuse for his not making the deposit required within the time allowed, the Court may order a fresh summons to issue upon the plaint already filed.

Procedure in case of dimissal of suit under Section 5.

Procedure on application for discharge by a person arrested in execution of a decree for money.

* VIII. When a person arrested under a warrant in execution of a decree for money, shall, on being brought before the Court, apply for his discharge on either of the grounds mentioned in Section 273 of Act VIII. of 1859, the Court shall examine the applicant in the presence of the plaintiff or his pleader, as to his then circumstances and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed, and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Court may of its own accord summon witnesses.

IX. If the Court shall at any time think it necessary for the ends of justice to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. The costs of summoning such person, if not deposited by either party to the suit, shall be paid by the Collector under an order of the Court, and shall be costs in the suit, and shall be paid out of any money recovered on account of costs in the suit, whether at the instance of the Government or of either party, before any other costs in the suit are paid.

In suits for money decree may order certain interest to be paid on the principal sum adjudged.

X. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum so adjudged and on the costs of the suit from the date of the decree to the date of payment.

How questions regarding amount of mesne profits and interest and sums paid

† XI. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject-matter of a suit

* Pending enquiry under this Section, the defendant may be delivered to the custody of the Superintendent of the Presidency Jail subject to certain provisions. See Act No. XII., 1867, Section 13.

† The rest of this Section is repealed by Act No. VII., 1870, Section 2, Schedule 3.

in satisfaction of decrees, &c., are to be determined.

between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by separate suit, and the order passed by the Court shall be open to appeal: Provided that, if upon a perusal of the petition of appeal and of the order against which the appeal is made the Court shall see no reason to alter the order, it may reject the appeal, and it shall not be necessary in such case to issue a notice to the respondent before the order of rejection is passed.*

Appeals from orders rejected under Section 364, Act VIII. of 1859, may be admitted on application.

XII. An appeal from an order passed in execution of a decree which shall have been rejected as inadmissible under Section 364 of Act VIII. of 1859, or which would have been inadmissible before the passing of this Act, but which is rendered admissible by this Act, may be admitted on an application in writing to the Court which rejected the appeal or by which the appeal, had it been admissible before the passing of this Act, would have been cognizable, provided the application be preferred within ninety days from the date of the passing of this Act.†

In suits of the nature and amount cognizable by Small Cause Courts, Court may, on verbal application of the judgment-creditor, direct immediate execution either against the person or property of judgment-debtor.

XIII. When a decree is passed in any suit of the nature and amount cognizable by Courts of Small Causes constituted under Act XLII. of 1860, the Court passing the decree, whether such Court be a Court constituted as aforesaid, or any other Court, may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, direct immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the personal property of the judgment-debtor, within the same limits. If the warrant be directed against the personal property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, which shall be indicated by the judgment-creditor.

Co-sharer of a share of a Putteedaree Estate sold in execution.

XIV. When the land sold in execution of a decree is a share of a Puttedaree Estate paying Revenue to Government as defined in Section 2, Act I. of 1841 (*for facilitating the collection of the Revenue of Government, and*

* These words indicate positively the procedure which ought to be adopted, and declare that the procedure by separate suit shall not be adopted.—Chumapa Nayndu *v.* Pitchi Beddi and others, 1, Mad. H. C. R., p. 453. In the face of this positive direction of the law, the form of action by a separate suit to recover mesne profits cannot be permitted.—Jiva Patel Rahinma *v.* Malukji and others, 3, B., R., A. C. J., p. 31.

† The order of a Moonsiff declining to put the purchaser at a judicial sale of immoveable property in possession thereof, is open to appeal under this Section.—*In re* Goorappa, 1, B. R., p. 90. It was held that the procedure on an application by a defendant for his discharge under Section 273, Act VIII., 1859, comes within the words of this Section, and that the decision of a Moonsiff on such a question is open to appeal.—Yeshvantrao Amritrao Jamin *v.* Ismail Ali Khan, 2, B. R., p. 99.

of decree may claim to take the share at the sale price.

defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Putteedaree Estates), if the lot shall have been knocked down to a stranger, any co-sharer other than the judgment-debtor, or any other member of the coparcenary, may claim to take the share sold at the sum at which the lot was knocked down: Provided that the claim be made on the day of sale, and the claimant fulfil all the conditions of the sale.

Proviso.

XV. The Court, on receiving any application for execution of a decree containing the particulars mentioned in Section 212, Act VIII. of 1859, or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the register of the suit. If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

Procedure on receiving application for execution of decree.

XVI. When in any case pending before any Court any witness or other person shall appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, or 210, of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

Procedure when certain offences under Chapter XI. of the Penal Code are committed in any case pending before any Court.

XVII. The Court may send the person accused in custody, or take sufficient bail for his appearance before the Magistrate, and may bind over any person to appear and give evidence before the Magistrate.

Court may take bail and bind over witnesses to give evidence.

XVIII. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XIII of the Code of Criminal Procedure, and shall transmit the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session.

How the charge is to be framed.

XIX. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate, a charge described in Section 463, 471, 475, or 476, of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it under the rules for the time being in force.

Procedure in case of certain offences relating to documents.

Procedure in case person accused under Section 16 or 19 is a European British subject.

XX. If the person accused or any one of the persons accused in any case falling under Section 16 or Section 19 of this Act is a European British subject, the Court shall send such person in custody, or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such Officer shall proceed according to law.

Procedure in certain cases of contempt.

XXI. When any such offence as is described in Section 175, 178, 179, 180, or 228, of the Indian Penal Code, is committed in the view or presence of any Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding 200 Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding 200 Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested, by the Statute 53 George III., 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

Discharge of an offender on his submission.

XXII. When any person has been sentenced to punishment under the last preceding Section, for refusing or omitting to do any thing which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Appeal to lie from all decrees, except

XXIII. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear

when expressly prohibited.

appeals from the decisions of those Courts. If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the lower Court as to the facts, the case shall be determined accordingly: if in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges, and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard.

Appeal to Sudder Court to be heard by two or more Judges.

XXIV. The sureties for the appearance of any person under Section 76 of the said Act VIII. of 1859, may at any time apply to the Court in which they became such sureties to be discharged from their engagements. On such application being made the Court shall summon such person to attend, or if it shall think fit may issue a warrant in the first instance for his appearance. On the appearance of such person pursuant to the summons or warrant or on his voluntary surrender, the Court shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and thereupon proceedings shall be had under Sections 77 and 78 of the said Act.

Procedure in case of application by sureties discharged.

XXV. If the application for the admission of a special appeal be not written on a stamp paper of the prescribed value, or if it be not drawn up in the manner laid down in Section 374 of Act VIII. of 1859, or if it do not state any ground on which a special appeal will lie under the provisions of Section 372 of the said Act, the Court may reject the application, or may return it to the party for the purpose of being corrected. The order for rejecting the application or for returning it to the party may be passed by a single Judge of the Court. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. of the said Act, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals, so far as the same may be applicable.

Application for the admission of a special appeal informally drawn up, how to be dealt with.

XXVI. No appeal shall lie from any order or decision passed in any suit instituted under Section 15, Act XIV. of 1859 (*to provide for the limitation of suits*), nor shall any review of any such order or decision be allowed.

No appeal from order or decision under Section 15, Act XIV. of 1859.

* XXVII. No special appeal shall lie from any decision or order

* A suit brought to enforce a debt or demand not exceeding 500 Rupees which is secured upon and must in law be primarily satisfied, is not within the meaning of this Section.—Atmaran Bolalal Kagjo *v.* Sadashiv Hari Mahajani, 2, B. R., p. 1.

Where a suit appears from the plaint to be of a nature cognizable in a Court of Small Causes, but a question of title has been gone into by the District Court in appeal, a special appeal will lie.—W. D. Dikshit *v.* B. V. Diksit, 2, B. R., p. 4, Kisandram *v.* Jethiram, 5, B. R., A. C. J., p. 57.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860, (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), when the debt, damage, or demand for which the original suit shall be instituted shall not exceed 500 Rupees; but every such order or decision shall be final.

Reference of question to the Sudder.

XXVIII. If in any suit in which an order or decision is made final under the last preceding Section, any question of law, or usage having the force of law or the construction of a document affecting the merits of the case shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the suit, draw up a statement of the case and submit such statement with its own opinion for the decision of the Sudder Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XXIX. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court until the receipt of the order of that Court.

Two or more Judges of Sudder Court to decide cases referred under Section 28.

XXX. Cases referred for the opinion of the Sudder Court shall be dealt with by two or more Judges of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

XXXI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-House of that Court.

Parties may appear and be heard in person or by pleader.

XXXII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Decision of Sudder Court how to be transmitted.

XXXIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Costs of reference to Sudder Court.

XXXIV. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Sudder Court may call for record of lower Appellate Court and set aside its decision, though no appeal shall lie to the Sudder Court.

XXXV. The Sudder Court may call for the record of any case decided on appeal by any Subordinate Court in which no further appeal shall lie to the Sudder Court, if such subordinate Court shall appear in hearing the appeal to have exercised a jurisdiction not vested in it by law, and the Sudder Court may set aside the decision passed on appeal in such case by the Subordinate Court, or may pass such other order in the case as to such Sudder Court may seem right.

Security may be taken when execution is required of a decree which has been appealed against.

XXXVI. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court. The Appellate Court may in any such case direct the Court which pronounced the decree to take such security.

Appellate Court to have same powers as Courts of original jurisdiction.

XXXVII. Unless when otherwise provided, the Appellate Court shall have the same powers in cases of appeal which are vested in the Courts of original jurisdiction in respect of original suits.

Procedure prescribed by Act VIII. of 1859, to be followed in all future miscellaneous cases and proceedings.

XXXVIII. The procedure prescribed by Act VIII. of 1859 shall be followed as far as it can be in all miscellaneous cases and proceeding which after the passing of the Act shall be instituted in any Court.

Extension of Act to Non-Regulation Provinces.

XXXIX. When under the provisions of Section 385 of the said Act, the Act is extended to any part of the territories not subject to the General Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein, subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the local Government to any territory subordinate to such Government, and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor-General of India in Council shall be requisite.

Sudder Court to make general rules for regulating proceedings, &c.

XL. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and the Courts subordinate to it, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed under this Section shall be published in the Official Gazette.

Interpretation of "Pleader."

XLI. The word "Pleader," as used in this Act, shall include the words "Counsel" and "Advocate."

Short Title.

XLII. Act VIII. of 1859 shall be called the Code of Civil Procedure.

XLIII. *Repealed by the Repealing Act XIV.*, 1870.

Construction.

XLIV. This Act shall be read and taken as part of Act VIII. of 1859.

ACT No. XXIV. OF 1861.

1. Banks may enter into certain arrangements with Government.
2. Banks may transact the business incident to such arrangements.

An Act to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.

Whereas it is expedient to authorize the Banks of Bengal, Madras, and Bombay to enter into the agreements and arrangements hereinafter mentioned; It is enacted as follows:

Banks may enter into certain arrangements with Government.

I. It shall be lawful for any of the said Banks, by agreements under their corporate seal, to enter into agreements or arrangements with the Secretary of State for India in Council through the Governor-General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council, respectively, for superintending, managing, and becoming agents for the issue, payment, and exchange of Promissory Notes of the Government of India, payable on demand under Act XIX. of 1861 *(to provide for a Government Paper Currency)*, or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India; for the carrying on the business of an Agency of Issue under the said Act XIX. of 1861, in any Circle of Issue in which any of the said Banks shall have established a Branch Bank under Act VI. of 1839 *(relating to the Bank of Bengal)* or any other Act; and for transacting any part of the business of, or hitherto generally transacted by, or at the General Treasuries of the Governments at the several Presidencies of Fort William, Madras, and Bombay, respectively.

Banks may transact the business incident to such arrangements.

II. It shall be lawful for the said Banks of Bengal, Madras, and Bombay, in addition to the modes of business in which they may now by law be respectively engaged, to transact, in accordance with the provisions of the said agreements or arrangements entered into under Section 1 of this Act, all or any of the business appertaining to the superintendence, management, or agency for the issuing, payment, or exchange in the first Section mentioned and the business of an Agency of Issue under the said Act XIX. of 1861, in any such Circle of Issue as aforesaid, or all or any of the business of, or hitherto generally transacted by, the General Treasuries in that Section mentioned.

ACT No. XXV. OF 1861.*

THE CODE OF CRIMINAL PROCEDURE.

CONTENTS.

CHAPTER.		Section.
I.	Definitions	2
II	Of the Jurisdiction of the Criminal Courts ...	21
III.	Preliminary Rules	43
IV.	Of the Summons	64
V.	Of the Warrant and its Execution	76
VI.	Of Arrest without Warrant	100
VII.	Of Escape and Re-taking	112
VIII	Of Search Warrant	114
IX.	Preliminary enquiry by the Police	133
X.	Of Contempts and Disobedience of Orders ...	163
XI.	Prosecutions in certain cases	166
XII.	Of Preliminary enquiry by the Magistrate in cases triable by the Court of Session	179
XIII.	Of the charge	233
XIV.	Of cases triable by the Magistrate in which a Warrant on complaint may issue	248
XV.	Of cases triable by the Magistrate in which a Summons on complaint shall ordinarily issue	257
XVI.	Of enquiries and trials before the Subordinate Magistrates	273
XVII.	Place where preliminary investigation and trials held, an open Court	279
XVIII.	Of Recognizance and Security to keep the Peace ...	280
XIX.	Security for good behaviour	295
XX.	Of Local Nuisances	308
XXI.	Of the maintenance of Wives and Children ...	316
XXII.	Of disputes relating to the possession of Land, or the right of use of any Land or Water	318
XXIII.	Of Juries and Assessors	322
XXIV.	Of Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort St. George	355
XXV.	Trials before the Court of Session	359
XXVI.	Finding, Judgment, and Sentence	381
XXVII.	Of Lunatics	388
XXVIII.	Sudder Court as a Court of Reference	398
XXIX.	Sudder Court as a Court of Revision	402
XXX.	Appeals	407
XXXI.	General Rules	429

* Act VIII, 1869, is to be read with and taken as part of this Act.

All or any of the powers conferred by this Act on the Governor of Bombay in Council, as the local Government of the Province of Sind may, by Act V., 1868, be delegated by the said Governor in Council to the Commissioner in Sind.

Extended to the Province of Coorg from the 9th December, 1862, by Act XXV. 1868, Section 25.

The powers conferred upon a local Government by certain sections of this Act, have been delegated to the Chief Commissioner of Coorg, by G. O. No. 1671, in *Gazette of India*, 13th November, 1869, p. 421.

ARRANGEMENT OF SECTIONS.

Section.

Short title 1

CHAPTER I.

OF DEFINITIONS.

Interpretation 2
"British India" 3
"Special law"... 4
"Local law" 5
"Moveable property" 6
Number 7
Gender 8
"Enquired into" 9
"Determined"... ... ... *ib.*
"Written" 10
"Criminal Court" 11
"Court of Justice" 12
"Court of Session" 13
"Magistrate of the District" 14
"Magistrate" 15
"The powers of a Magistrate" 16
"Any of the powers of a Magistrate" 17
"District" 18
"Division of a District" ... ... *ib.*
"Sudder Court" 19
"Year" 20
"Month" ... ... *ib.*

CHAPTER II.

OF THE JURISDICTION OF THE CRIMINAL COURTS.

Offences cognizable by Criminal Courts 21
By what Court the offences mentioned in the Schedule are triable, and within what limits such Court may pass sentence ... 22
Powers of Court of Session ... ... *ib.*
Assistant Sessions Judges in Bombay ... ... *ib.*
Powers of the Magistrate of the District ... ... *ib.*
Powers of Subordinate Magistrates, 1st Class ... ... *ib.*
Ditto Ditto 2nd Class ... ... *ib.*
Local Government may invest any person with powers of Magistrate or Subordinate Magistrate 23
Criminal Courts to have jurisdiction over all persons except persons expressly exempted 24
No person exempted from Criminal Procedure by reason of place of birth or of descent... 25
Proviso ... ... *ib.*
Offence to be ordinarily tried in the jurisdiction where it is committed 26
Proviso ... ... *ib.*
May be tried in the jurisdiction where the act is done, or where the consequence ensues 27
Abetment 28
Offence committed on boundary 29
Offence committed during the journey, &c. 30
Receiving, &c., stolen property 31
Being a Thug, &c. 32
Escape from lawful custody under sentence 33

OF THE JURISDICTION OF CRIMINAL COURTS.—(*Continued.*) *Section.*

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place 34
Sudder Court may transfer any case from one jurisdiction to another 35
Magistrate may withdraw any case from a Subordinate Court, and try it himself, or refer it to any other such Court ... 36
Commitment for trial before Supreme Court 37
Subordinate Magistrate may be empowered to prepare cases for trial before the Court of Session or Supreme Court .. 38
Only Justices of the Peace empowered to commit European British subjects for trial 39
Procedure when a European British subject is charged with an offence triable by Supreme Court 40
Procedure when a European is arrested by an officer not being a Justice of the Peace 41
Saving of jurisdiction given by 53 George III, c. 155. s. 105, and Act VII. of 1853... 42
Proviso ... ... *ib.*

CHAPTER III.

PRELIMINARY RULES.

Complainants and witnesses to be examined according to the law for time being in force 43
Court may apply portion of fine in compensation for loss or damage caused, &c. 44
Imprisonment in default of payment of fine 45
Proviso ... ... *ib.*
Sentence in cases of conviction of two or more offences ... 46
Proviso ... ... *ib.*
Currency of sentence of escaped Convicts 47
Judgment on offender already imprisoned under sentence for another crime 48
Proviso ... ... *ib.*
Local Government may order romoval of a prisoner from one Jail to another 49
Place of transportation not to be specified in sentences ... 50
Governor-General in Council to appoint a place or places ... 51
Local Government to direct removal of persons sentenced to such place or places ... ... *ib.*
Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence 52
Sentence of death 53
Governor-General in Council or the Local Government may remit a punishment 54
Party tried upon formal charge not liable to renewed prosecution 55
Proviso ... ... *ib.*
A person charged with criminal breach of trust may be found guilty of theft 56
A person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant ... 57
A person charged with theft may be found guilty of misappropriation or breach of trust 58
A person charged with theft as a servant may be found guilty of misappropriation 59
No person charged under the last four Sections, and found guilty, liable to be charged again 60

PRELIMINARY RULES.—(*Continued.*) *Section.*
Levy of fines 61
Magistrate may issue orders to prevent obstructions, &c. ... 62
Magistrate may probibit the repetition or continuance of public nuisances 63

CHAPTER IV.

OF THE SUMMONS.
Proceeding to compel appearance 64
Complaint 65
Examination of complainant 66
Magistrate how to proceed on complaint 67
Magistrate may take cognizance of offences without complaint made 68
Proviso ... ... *ib.*
Summons, what it is to contain, and how to be directed ... 69
Summons by whom to be served 70
Summons how to be served 71
Mode of service if accused cannot be found, &c. 72
Notwithstanding Summons, Warrant may issue in certain cases 73
Summons or Warrant when grantable for an offence committed beyond local jurisdiction 74
Provisions in this Chapter relating to a Summons and its issue applicable to all Summonses 75

CHAPTER V.

OF THE WARRANT AND ITS EXECUTION.
Form of Warrant 76
Warrants to whom to be directed 77
When directed to any person other than a Police Officer ... 78
To several persons jointly... 79
Police Officer may endorse Warrant to another Officer ... 80
Magistrate issuing a Warrant may personally superintend its execution 81
All persons bound to assist in certain cases 82
Where a Warrant of a Magistrate must be executed ... 83
Warrant executed in another jurisdiction 84
If arrest be made within jurisdiction of a Supreme Court ... *ib.*
If arrest be made within twenty miles, person arrested may be carried before the Magistrate who issued the Warrant ... 85
Warrant to be endorsed may be sent by post 86
Warrants for execution within limits of Supreme Court to be addressed to Chief-Commissioner or Magistrate of Police 87
Magistrate how to proceed on arrest under his own Warrant for an offence committed out of his jurisdiction 88
Subordinate Magistrate how to proceed in such cases ... 89
Notification of substance of Warrant 90
Warrant how to be executed 91
Resisting an endeavour to arrest 92
Search of house entered into by person against whom warrant has been issued 93
Breaking of outer door or window 94
Breaking open a zenanah or female apartment 95
No unnecessary restraint 96
Party arrested to be brought immediately before the Magistrate 97
No threat, promise, or caution, as to disclosure by party arrested 98
Provisions in this Chapter relating to a Warrant and its issue applicable to all Warrants 99

CHAPTER VI.

ARREST WITHOUT WARRANT. *Section.*

Police Officer may arrest without Warrant in certain cases ... 100
Vagabonds 101
Police may interfere to prevent offences 102
Information to be communicated 103
May arrest to prevent offences 104
Injury to public property 105
Person in charge of house entered into by another of whom Police Officer is in search, to allow ingress, &c. 106
Procedure if ingress be not obtained 107
Person charged with an offence refusing to give his name and ... residence 108
Party arrested to be taken immediately before the proper authority 109
Arrest for an offence committed in the presence of a Magistrate 110
Uulawful assembly to disperse on the order of a Magistrate, &c. 111

CHAPTER VII.

OF ESCAPE AND RE-TAKING.

Person arresting may re-take on escape and deal with the party arrested as on original taking 112
May adopt the same measures as on original taking ... 113

CHAPTER VIII.

OF SEARCH WARRANT.

When grantable by a Magistrate 114
How to be directed 115
A Warrant to a Police Officer may be executed by another ... 116
How to be executed out of jurisdiction of the Magistrate ... 117
Search Warrants may, in cases of emergency, be executed without endorsement 118
Thing found to be taken immediately to the Magistrate within whose jurisdiction it is found ... ... *ib.*
Procedure in such cases within local limits of Supreme Court 119
Magistrate may, when necessary, issue Search Warrant to be executed in the jurisdiction of another Magistrate ... 120
Magistrate may send Search Warrant by post to the Magistrate of another District 121
Procedure to be observed by such Magistrate ... ... *ib.*
Persons in charge of dwelling-house, &c., to allow the search ... 122
Place to be searched may be broken open 123
Breaking of zenanah or female apartment 124
Search of house, &c., to be made in the presence of witnesses ... 125
Occupant of the place searched may attend ... ... *ib.*
Mode of searching females 126
Search of house, &c., suspected to contain forged documents, &c. 127
Magistrate may attend personally 128
Inspection of weights and measures used in shops 129
Procedure by Police Officer upon seizure of stolen property found on an offender 130
Procedure if such property be unclaimed 131
Procedure if no claimant appear within six months from date of proclamation 132

CHAPTER IX.

PRELIMINARY ENQUIRY BY THE POLICE.

Police Officers to make enquiry into certain offences only when directed to do so by Magistrate 133

PRELIMINARY ENQUIRY BY THE POLICE.—(*Continued.*) *Section.*
Saving of powers vested in Police Officers by any special or local law 134
Upon complaint preferred, Officer in charge of Police Station to proceed in person or depute a subordinate Officer to make enquiry 135
Except in cases not of a serious nature, where local enquiry not necessary 136
If Police Officer see no sufficient ground for an enquiry ... 137
All persons to give information of offences 138
Complaint, &c., to be in writing 139
Procedure when a Police Officer deputes another 140
Police may pursue offenders into other jurisdictions ... 141
Issue of Search Warrants by Officer in charge of Police Station 142
When one Officer of a Police Station may require another to issue a Search Warrant 143
Witnesses to be summoned 144
Oral examination of witnesses by Police 145
Proviso ... ... *ib.*
No inducement to be offered to accused person to confess ... 146
Police Officer not to record confession... 147
Proviso ... ... *ib.*
Confession made to a Police Officer shall not be used as evidence 148
Confession made while the accused is in custody of the Police shall not be used as evidence 149
Police Officer may give in evidence so much of any statement or confession made by the accused as relates distinctly to a fact thereby discovered 150
Enquiry by the Police 151
Accused not to be detained by the Police beyond twenty-four hours without special authority 152
Police how to proceed in cases of deficient evidence ... 153.
Daily record of proceedings 154
Report of Police Officer of what to consist 155
Bail 156
Bail not to be excessive. Terms of security 157
Prosecutors and witnesses to execute recognizances to appear before the Magistrate 158
Prosecutors and witnesses not to be subjected to restraint ... 159
Recusant prosecutor or witness may be forwarded in custody ... *ib.*
Police to report all apprehensions 160
Police to make immediate enquiry and report on unnatural and sudden deaths 161
By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness 162

CHAPTER X.

OF CONTEMPTS AND DISOBEDIENCE OF ORDERS.
Procedure in certain cases of contempt 163
Discharge of an offender on his submission 164
Procedure in all except certain cases when the offender is a European British subject 165

CHAPTER XI.

PROSECUTIONS IN CERTAIN CASES.
Prosecutions for certain offences not to be instituted but under authority of Government or of a duly empowered Officer 166

PROSECUTION IN CERTAIN CASES.—(*Continued.*) *Section.*
Prosecution against Judges, &c. 167
Prosecution for certain offences under Chapter X. of the Penal Code not to be instituted but with the sanction of the public servants concerned 168
Prosecution for certain offences against public justice not to be instituted, but with the sanction of the authority before which the offence was committed... 169
Prosecution for certain offences relating to documents not to be instituted, but with the sanction of the Court in which such documents were given in evidence 170
Mode of proceeding in cases mentioned in the last three preceding Sections 171
Power of Court of Session in respect of such offences committed before it 172
Civil Courts empowered to complete investigation and commit accused to Court of Session 173
Procedure by Civil Court in such cases 174
Court of Session or Civil Court may exercise all the powers of a Magistrate as to binding over persons to give evidence ... 175
Magistrates not empowered to commit, to send the case to Magistrate competent to do so 176
Prosecution for adultery not to be instituted except by the husband 177
Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the womau... 178

CHAPTER XII.

OF PRELIMINARY ENQUIRY BY THE MAGISTRATE IN CASES TRIABLE BY THE COURT OF SESSION.
Magistrate may issue his Warrant 179
May issue a Summons instead of a Warrant ... .. *ib.*
Postponement of issue of process 180
May dismiss the complaint ... . *ib.*
Magistrate may direct bail to be taken 181
Magistrate may dispense with the personal attendance of the accused 182
Proclamation for an absconding party 183
Attachment of the property of absconding party 184
Restoration of property declared to be forfeited 185
Summons to a witness to attend and give evidence ... 186
Form of summons to the witness, and mode of service thereof ... 187
In what cases Warrant in the first instance 188
If Warrant cannot be served 189
If on attachment witness appear and satisfy Magistrate, his property to be released from attachment 190
If he do not appear or satisfy Magistrate, property to be sold ... *ib.*
If he do not obey the Summons, then Warrant 191
Refusing to answer, may be committed to custody 192
Examination of the complainant and witness for the prosecution 193
To be in the presence of the accused who may cross-examine ... 194
Mode and language in which the evidence is to be recorded ... 195
Local Government may direct the evidence to be recorded in the vernacular language of the Magistrate 196
Proviso ... ... *ib.*
Local Government to decide what is the language in ordinary use in any District 197
How the evidence is to be recorded 198

OF PRELIMINARY ENQUIRY, &c.—(*Continued.*) *Section.*
Memorandum to be attached to the evidence 199
In what cases evidence to be interpreted to the accused or his Agent 200
Power of Magistrate at any stage to summon and examine any person 201
Examination of defendant 202
No influence to be used to induce disclosures 203
Magistrate how to proceed in case of confession ... ... *ib.*
Accused person not to be sworn 204
Examination of the accused how to be recorded 205
Any person attending may be detained for any offence committed by him 206
Discretionary with the Magistrate to take evidence for the defence 207
Witnesses for the defence 208
Magistrate may tender a pardon in certain cases 209
When Sudder Court or Court of Session may direct a tender of pardon 210
When Sudder Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered 211
Bail not to be taken for certain offences 212
When it may be taken ... ... *ib.*
When bail shall be taken 213
Recognizance of accused and sureties 214
Insufficient bail 215
Bail may be taken at any time before conviction 216
Discharge on bail 217
Discharge of sureties 218
Proceedings to compel payment of penalty by accused ... 219
Proceedings to compel payment of penalty by sureties ... 220
In what cases the powers given by the last two Sections may be exercised 221
Warrant of commitment how to be directed, &c. 222
With whom to be lodged 223
When Magistrate may adjourn the enquiry 224
When accused person to be discharged 225
When defendant to be committed for trial 226
Copy of charge to be furnished to accused person 227
Witnesses for the defence on the trial ... ... *ib.*
Magistrate may refuse to summon unnecessary witness, unless a deposit be made to defray the expenses of such witness ... 228
Record to be forwarded to the Superior Court 229
Copies of depositions to be furnished to accused 230
When commitment is made, Magistrate to give notice to Government Pleader, &c. 231
Recognizances of prosecutors and witnesses 232

CHAPTER XIII.

OF THE CHARGE.
What the charge is to contain 233
How the offence is to be described 234
Absence of general exceptions under the Penal Code to be assumed 235
Evidence as to general exception 236
Special ground of exception from absence of circumstances not to be assumed 237
Charge may contain one or more heads 238

OF THE CHARGE.—(*Continued.*) *Section.*
Heads of charge 239
On Section 121 of the Penal Code ... ... *ib.*
On Section 124 „ „ ... ... *ib.*
On Section 161 „ „ ... ... *ib.*
On Section 304 „ „ ... . *ib.*
On Section 306 „ „ ... ... *ib.*
On Section 325 „ „ ... ... *ib.*
On Section 392 „ „ ... ... *ib.*
On Section 395 „ „ ... ... *ib.*
Charges in cases falling within two or more Sections of the Penal Code 240
Two or more offences punishable under the same Section ... 241
Cases of doubt as to the Section which is applicable, or the offence which may be proved 242
Forms of charge of more than one head 243
On Sections 241 and 242 of the Penal Code ... .. *ib.*
On Sections 302 and 304 of the Penal Code ... ... *ib.*
On Sections 379 and 382 ... ... *ib.*
Amendment of charge 244
When the trial may be immediately proceeded with after amendment 245
When a new trial may be ordered, or trial suspended ... 246
Defendant may re-call and examine witnesses already examined 247

CHAPTER XIV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A WARRANT ON COMPLAINT MAY ISSUE.
Cases in which Magistrate may issue a Warrant 248
Summons instead of Warrant ... ... *ib.*
Issue of process, &c. 249
Charge 250
Plea 251
Plea of claim to be tried 252
Evidence for the defence 253
Witnesses for the defence 254
Acquittal or conviction 255
How the Magistrate is to proceed when after commencement of trial he finds the case beyond his jurisdiction ... 256

CHAPTER XV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.
Summons shall issue 257
When Warrant may issue ... ... *ib.*
Defendant may be admitted to bail or to be at large upon personal recognizance 258
Non-appearance of complainant 259
If summons be not obeyed, Warrant 260
Magistrate may dispense with personal attendance of accused ... 261
Summons to witness to attend and give evidence 262
Magistrate may summon necessary evidence 263
Application of previous rules 264
Admission by accused of truth of complaint 265
Proceeding when no such admission is made 266
How the evidence is to be recorded 267
Manner of recording evidence in certain cases 268

OF CASES TRIABLE BY THE MAGISTRATE, &c.—(*Continued.*) *Section.*
Adjournment 269
Magistrate may award amends in cases of frivolous and vexatious complaints 270
Magistrate may permit withdrawal of the complaint ... 271
Acquittal or conviction 272

CHAPTER XVI.

OF ENQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.
Reference of cases to Subordinate Magistrate 273
Proviso ... ... *ib.*
Cases how to be referred 274
Subordinate Magistrates to follow the same rules of Procedure as the Magistrate 275
How the subordinate Magistrate is to proceed in cases beyond his jurisdiction 276
In what cases Subordinate Magistrates shall not pass sentence, but may refer case to the Magistrate 277
How the Magistrate is to proceed in such cases ... ... *ib.*
Subordinate Magistrate, if empowered to do so, may, instead of convicting the accused, commit him for trial before the Court of Session 278
Mode of procedure in such cases ... ... *ib.*

CHAPTER XVII.

PLACE WHERE PRELIMINARY INVESTIGATIONS AND TRIALS HELD, AN OPEN COURT.
Place where investigation made, an open Court 279

CHAPTER XVIII.

OF RECOGNIZANCE AND SECURITY TO KEEP THE PEACE.
Personal recognizance to keep the peace in cases of conviction... 280
Security to keep the peace 281
Summons to any person to show cause why he should not enter into a bond to keep the peace 282
Form of Summons 283
Penalty 284
Warrant of arrest 285
Magistrate may dispense with personal attendance of party informed against 286
Discharge of party informed against 287
Consequence of not complying with order of Magistrate to enter into a bond 288
Limit for confinement 289
Extension of period of confinement 290
Discharge of recognizances 291
Discharge of sureties 292
Enforcement of penalty against the principal party ... 293
Recovery of penalty from surety 294

CHAPTER XIX.

SECURITY FOR GOOD BEHAVIOUR.
When Magistrate may require security for good behaviour for six months 295
When Magistrate may require security for good behaviour for one year 296
How to proceed in cases beyond one year 297

SECURITY FOR GOOD BEHAVIOUR.—(*Continued.*) *Section.*
Case to be laid before the Court of Session 298
Court of Session may require security not exceeding three years 299
What the order for security is to contain 300
In default of security party to be committed to prison ... 301
Proviso ... ... *ib.*
When Magistrate may release persons under requisition of security 302
When he must report 303
Discharge of surety 304
Proceeding to compel payment of penalty by sureties ... 305
Issue of Summons and Warrant of arrest 306
Manner of taking evidence under Chapter XVIII. or this Chapter 307

CHAPTER XX.

OF LOCAL NUISANCES.
Magistrate may order removal of nuisances 308
Service or notification of order 309
Person ordered shall obey the order, or may claim a Jury ... 310
Constitution of Jury ... ... *ib.*
Proceeding in case of neglect by Jury... ... ... *ib.*
Procedure in case of disobedience or neglect by party ordered... 311
If Jury find order of Magistrate to be reasonable and proper ... 312
If party ordered satisfy the Magistrate that the order is not reasonable and proper 313
Issue and enforcement of injunction 314
Saving of certain provisions 315

CHAPTER XXI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.
Magistrate may make order for maintenance of wives and children 316
Enforcement of order ... ... *ib.*
Proviso ... ... *ib.*
Application for reduction of allowance 317

CHAPTER XXII.

OF DISPUTES RELATING TO THE POSSESSION OF LAND OR THE RIGHT OF USE OF ANY LAND OR WATER.
Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace 318
Party in possession to be continued until ousted by due course of law ... ... *ib.*
If previous possession cannot be ascertained, Magistrate may attach subject of dispute 319
Disputes concerning right of use of land or water... ... 320
Saving of powers of Collectors and Revenue Courts ... 321

CHAPTER XXIII.

OF JURIES AND ASSESSORS.
Local Government by order to specify in what places trials to be by Jury 322
How the Jury is to be constituted for the trial of persons belonging to certain specified races 323
Proviso ... ... *ib.*
Trials before the Session Court with Assessors 324
How the Jury is to be constituted for the trial of other persons 325

OF JURIES AND ASSESSORS.—(*Continued.*) *Section.*
How the Jury is to be constituted when persons of both descriptions are jointly charged 326
Number of which the Jury is to consist 327
Number of voices necessary to a verdict 328
List of Jurors and Assessors 329
Publication of list 330
Revision of list 331
Further revision of list 332
Jurors 333
Disqualifications 334
Exemptions 335
Person exempted is not bound to avail himself of his right of exemption ... ... *ib.*
Court to summon Jurors 336
Form and service of Summons 337
Power of Court to summon another set of Jurors or Assessors 338
Service of Summons to serve as Juror or Assessor, on an Officer of Government 339
Court may excuse attendance of a Juror or Assessor ... 340
List of names of Juror or Assessors attending at each Session... 341
Jurors to be chosen by lot... 342
Assessors to be selected by Judge ... ... *ib.*
Names of Jurors to be called 343
Objections ... ... *ib.*
Grounds of objection 344
Juror to understand the language in which evidence is given or interpreted 345
Foreman of Jury 346
The same Jury or Assessors may try in succession several offenders 347
View by Jury or Assessors 348
Mode of summoning and empanelling Jurors for a Jury constituted under Section 323 349
If prior to finding, any of the Jury be unable to proceed with the trial 350
Verdict of guilty by less than the specified majority of Jury ... 351
When and how long Jury may retire for finding 352
If either of the Assessors be unable to proceed with trial ... 353
Penalty for non-attendance of Juror or Assessor 354

CHAPTER XXIV.

OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT SAINT GEORGE.
Criminal Jurisdiction and powers of punishment of Subordinate Judges and Principal Sudder Ameens 355
What cases Subordinate Magistrates may commit, and what cases they may refer to Magistrate 356
Subordinate Magistrate after trial may refer to Magistrate of the District 357
Cases committed for trial before Subordinate Judges and Principal Sudder Ameens 358

CHAPTER XXV.

TRIALS BEFORE THE COURT OF SESSION.
Cognizance of offences by the Court of Session in original jurisdiction 359

TRIALS BEFORE THE COURT OF SESSION.—(*Continued.*) *Section.*

Every trial before Court of Session to be conducted by Government Pleader, &c. 360
Postponement of trial 361
Commencement of trial 362
Refusal to plead, or plea of claim 363
Provisions relating to examination of parties, &c., in trials before Magistrate to be applicable to trials before Court of Session 364
Witness refusing to answer may be committed to custody ... 365
Examination of accused before the Magistrate to be evidence at the trial 366
Proof of such examination ... ... *ib.*
Court may summon necessary evidence 367
Evidence of medical witness 368
Examination of witness taken and attested by Magistrate when admissible 369
Report of Chemical Examiner admissible in evidence ... 370
Dying declaration 371
Defence 372
When accused person may be examined 373
When accused may address the Court... 374
Witness for the defence 375
Prosecutor's right of reply 376
Adjournment 377
Jury or Assessors to attend at adjourned sitting 378
Of verdict of Jury 379
Acquittal or conviction 380

CHAPTER XXVI.

FINDING, JUDGMENT, AND SENTENCE.

What the judgment is to specify 381
Form of finding and sentence 382
Execution of sentence of Court in cases referred to the Sudder Court for confirmation of sentence 383
Court of Session to direct Warrant to District Magistrate ... 384
Execution of sentence under the two last foregoing Sections ... 385
Warrant of commitment in cases of imprisonment ... 386
Transmission of periodical calendars of trials by Court of Session 387

CHAPTER XXVII.

OF LUNATICS.

Procedure in case of accused person being lunatic 388
Procedure in case of person committed before a Court of Session being lunatic 389
Release of lunatic pending investigation or trial 390
Resumption of investigation of case 391
Procedure on accused appearing or being brought before Magistrate or Court of Session 392
Procedure in case of acquittal of accused person on the ground of being lunatic 393
Person so acquitted to be disposed of by Magistrate or Court of Session for safe custody, &c. 394
Lunatics to be visited and reported on by Inspector of Jails, &c. 395
If lunatic confined under Section 390 is reported capable of making his defence ... ... *ib.*
If lunatic confined under Section 394 is declared capable of being discharged ... ... *ib.*

OF LUNATICS.—(*Continued.*) *Section.*

Person under sentence of imprisonment appearing to be of unsound mind, may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c. ... 396

When lunatic may be delivered over to the care and custody of a relative or friend 397

CHAPTER XXVIII.

SUDDER COURT AS A COURT OF REFERENCE.

Constitution of Court for hearing case referred for confirmation of sentence 398

Power of Sudder Court to confirm, reverse, &c., sentence ... 399

Competence of Sudder Court to direct further enquiry, &c. ... 400

Confirmation or new sentence must be signed by two Judges ... 401

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

Revision in cases of illegal sentence 402

Revision of trials 403

General power of revision by the Sudder Court 404

Sudder Court empowered to call for and examine records of Court of Session 405

Proceedings of a case revised by Sudder Court to be certified to Court in which conviction was had 406

Proviso ... ... *ib.*

CHAPTER XXX.

APPEALS.

No appeal in cases of acquittal 407

Appeals in what cases in trials by Jury or with Assessors ... 408

Appeals from Magistrate 409

Appeals from Justices of the Peace 410

No appeal in certain criminal cases 411

Appeals from Officers exercising powers less than those of a Magistrate 412

Appeals from orders under Chapter X... 413

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court 414

Period for presenting petitions of appeal 415

Copy of judgment to accompany petition 416

Appellate Court may reject petition of appeal 417

Appeal by party in Jail 418

Appellate Court may call for the proceedings of lower Court ... 419

The signature of two Judges necessary 420

Appellate Court may suspend sentence pending appeal, and release defendant on bail 421

Appellate Court may direct further enquiry, &c. 422

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft 423

Finding of theft not reversible on the ground of the offence proved being dishonest misappropriation 424

Saving of power of Appellate Court to reduce punishment awarded under last two Sections 425

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings 426

Appellate Court may reduce punishment ... ... *ib.*

Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction 427

Finality of orders on appeal 428

CHAPTER XXXI.

GENERAL RULES. *Section.*

In what language sentence to be written 429
When it may be written in English 430
Employment of Interpreter 431
Right of accused to be defended by Counsel 432
Confinement of youthful offenders in reformatories ... 433
Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts 434
When Court of Session may order commitment of party discharged by Magistrate 435
Power of Court of Session to direct bail 436
Deposit may be made instead of bail... 437
Expenses of prosecutors and witnesses 438
No trial, &c., to be set aside for irregularity of procedure ... 439
Copy of sentence or order to be furnished on application ... 440
Act not to take effect in Presidency Towns or Straits' Settlement 441
Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c. 442
Ditto Ditto of Officers exercising jurisdiction over petty offences in Military Cantonments ... ... *ib.*
Sudder Court to make general rules for regulating proceedings, &c. 443
Procedure of this Act to be followed in miscellaneous criminal cases and proceedings 444
Commencement and operation of Act 445

APPENDIX OF FORMS

A. Form of Summons.
B. Form of Warrant.
C. Form of Warrant of Commitment.
D. Form of Bond to keep the Peace.
Form of Security to be subjoined to the Bond of the Principal.
E. Form of Recognizance to prosecute or give evidence.
F. Form of Bond for Good Behaviour.
Form of Security to be subjoined to the Bond of the Principal.

SCHEDULE.

An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.

Whereas it is expedient to simplify the Procedure of the Courts of Criminal Judicature not established by Royal Charter; It is enacted as follows:

Short title.

1. This Act shall be called the CODE OF CRIMINAL PROCEDURE

CHAPTER I.

OF DEFINITIONS.

Interpretation.

2. The following words and expressions in this Act shall have the meanings thereby assigned to them, unless there be something in the subject or context repugnant to such construction.

3. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vict., c. 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

4. The words "special law" shall denote a law applicable to a particular subject.

"Special law."

5. The words "local law" shall denote a law applicable only to a particular part of British India.

"Local law."

6. The words "moveable property" shall include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

"Moveable property.

7. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

8. Words importing the masculine gender shall include the feminine.

Gender.

9. The words "enquired into" shall be deemed to comprise every proceeding preliminary to trial; and the word "determined" to comprise trial, and every subsequent proceeding, including the punishment of the offender.

"Enquired into."

"Determined."

10. The word "written" shall include "printed," "lithographed," and "engraved."

Written.

11. The words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance, or on appeal, or for commitment to any other Court or Officer.

"Criminal Court."

12. The words "Court of Justice" shall denote a Judge who is empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice."

13. The words "Court of Session" shall, subject to the limitations in Section 22, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Court of Session."

14. The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such Officer is called.

"Magistrate of the District."

15. The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

"Magistrate."

16. The words "the powers of a Magistrate" shall imply the full powers of a Magistrate.

"The powers of a Magistrate."

17. The words "any of the powers of a Magistrate" shall denote powers less than the full powers Magistrate.

"Any of the powers of a Magistrate."

18. The local jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local jurisdiction in a particular part of a District vested in a Magistrate other than the Magistrate of the District, shall be deemed a "Division of a District."

"District."

"Division of a District."

"Sudder Court."

19. In any part of British India to which this Act shall be extended, under the provisions of Section 445, the words "Sudder Court" shall denote the highest Criminal Court of Appeal or revision in such part established.

"Year." "Month."

20. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

CHAPTER II.

Of the Jurisdiction of the Criminal Courts.

Offences cognizable by Criminal Courts.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code (Act XLV. of 1860), or under any special or local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

By what Courts the offences named in the Schedule are triable, and within what limits such Courts may pass sentence.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits, (that is to say):—

The Court of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law, or fine to an unlimited amount, or both transportation and fine, or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

In the Presidency of Bombay it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge; and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the fowllowing limits :—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Sessions Judge. The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance), or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

The Magistrate of a District or other Officer authorized to exercise the powers a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorized by law, or fine to the extent of 1,000 Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or Officers authorized to exercise any of the powers of a Magistrate.

1st Class.—Imprisonment of either description not exceeding six months, or fine not exceeding 200 Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

2nd Class.—Imprisonment of either description not exceeding one month, or fine not exceeding 50 Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

The Government may invest any person with powers of a Magistrate or of a Subordinate Magistrate.

23. The local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise, by such person, of such powers under this Act or under any special or local law.*

Courts to have jurisdiction over all persons not expressly exempted.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay, respectively, or by this Act or any other Act of the Governor-General of India in Council, are, or shall be, exempted from their jurisdiction.

No person exempted from Criminal Procedure by reason of birth or of descent.

Proviso.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act: Provided that nothing in this Section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

Offence to be ordinarily tried in the jurisdiction where it is committed.

Proviso.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District *or division of a District*† in which the offence was committed: Provided that nothing in this Section shall exempt European British subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

May be tried in the jurisdiction where the act is done, or where the consequence ensues.

27. When a person shall be accused of the commission of any offence by reason of any thing which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District *or division of a District*† in which any such thing shall have been done or any such consequence shall have ensued.

Abetment.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District *or division of a District*† in which the offence abetted may be enquired into or determined by any Court which

* Here read Sections 23 A, B, C D, E, F, G, and H, of Act VIII., 1869

† These words are repealed by Section 3, Act VIII., 1869.

has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed; or the abetment may be enquired into or determined in any District *or division of a District** within which the abettor has done any thing for abetting the commission of such offence.

Offence committed on boundary.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same local Government or not, *or of two or** *more divisions of a District*,† or shall be begun in one District *or division of a District*† and completed in another, whether such Districts be subject to the same local Government or not, every such offence may be enquired into or determined in any of such Districts *or divisions of a District*,† in the same manner as if it had been actually and wholly committed therein.

Offence committed during journey, &c.

30. When any offence shall be committed on any person, or on, or in respect of, any property, in or upon any coach, cart, or other carriage or conveyance, or upon any beast of burden employed in any journey, or shall be committed on any person, or on, or in respect of, any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District *or division of a District*,† through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District *or division of a District*;† and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts *or divisions of a District*,† such offence may be enquired into or determined in either of such Districts *or divisions of a District*,† through or adjoining to, or by the boundary of any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District *or division of a District*.†

Receiving, &c., stolen property.

31. If any person be charged with any offence punishable under Section 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District *or division of a District*† in which such person shall have, or shall have had, such stolen property in his possession, or in any District *or division of a District*† in which the offence by which such property came to be stolen property‡ within the meaning of the said Code, may be enquired into or determined.§

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* These words are repealed by Section 3, Act VIII., 1869.

† These words are repealed by Section 3, Act VIII., 1869, and Section 36 of that Act substituted for it.

‡ A conviction was annulled for want of jurisdiction, the prisoner being an inhabitant of a foreign State, and the property being found there, and there being no evidence that it had been stolen in British territory.—Reg. *v.* Bechar Mava, 4, B. R., C. C., p. 39.

§ Here read Section 31A, Act VIII., 1869.

Being a thug, &c.

32. Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into in any District in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Escape from lawful custody under sentence.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence, or shall be charged with any offence punishable under Section 227 of the Indian Penal Code, or under Section 12 of Act XXIV. of 1855 *(relating to Penal Servitude)*, the offence may be enquired into or determined, either in the District *or division of a District** in which such person shall be apprehended and re-taken, or in the District *or division of a District** in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended to decide in which District the offence shall be determined.

Sudder Court may transfer any case from one jurisdiction to another.

35. It shall be competent to the Sudder Court to order the transfer of any criminal case or appeal from a Criminal Court subordinate to its authority, to any other such Criminal Court of equal or superior jurisdiction, or to order that any offence shall be enquired into or determined in any District or division of a District, other than that in which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

36. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 36 *of that Act substituted.*

Commitment for trial before the Supreme Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court, and to exercise all the powers necessary for such purpose.

38. The local Government may empower† any Subordinate Magis-

* These words are repealed by Section 3, Act VIII., 1869.

† This power is delegated to the Chief Commissioners of Oudh, the Central Provinces, and British Burmah by G. O. No. 1107, in *Gazette of India*, 4th July, 1868, p. 1010.

Subordinate Magistrate may be empowered to prepare cases for trial before the Court of session or Supreme Court.

trate of the first or second class not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Only Justices of the Peace empowered to commit European British Subjects for trial.

39. No person who is not a Justice of the Peace shall commit, or hold to bail, any European British subject to take his trial before a Supreme Court of Judicature.

Procedure when a European British subject is charged with an offence triable by Supreme Court.

40. When a European British subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person with a view to the complaint being investigated by a Justice of the Peace.*

Procedure when a European is arrested by an Officer not being a Justice of the Peace.

41. When a European British subject has been arrested under a warrant, issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace, under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the Supreme Court of Judicature.

Saving of jurisdiction given by 53 Geo. III., c. 155, s. 105.

42. Nothing in this Chapter shall interfere with the jurisdiction given by the Statute 53 George III., c. 155, s. 105, or Act VII. of 1853 *(to extend the jurisdiction of Magistrates under the 53rd George III., c.* 155, *s.* 105, *in cases of assault, forcible entries, and other injuries accompanied by force not being felonies)*: Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace.

Proviso.

CHAPTER III.

Preliminary Rules.

Complainants and witnesses to be examined according to law for time being in force.

43. In all Criminal Courts complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

† 44. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 44 *of that Act substituted for it.*

* Here read Section 40 A of Act VIII., 1869.

† See Reg. *v.* Samsen Baboji, 3, B. R., C. C., p. 44.

Imprisonment in default of payment of fine.

45 In every case punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine: Provided that in every such case decided by a Magistrate, the period of imprisonment awarded in default of payment of the fine shall in no case exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso.

Sentence in cases of conviction of two or more offences.

*46. When a person shall be convicted at one time of two or more offences punishable under the same or different Sections of the Indian Penal Code, it shall be lawful for the Court to sentence such person for the offences of which he shall have been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties when consisting of imprisonment to commence the one after the expiration of the other. It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which such Court is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court: Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years; and provided, also, that if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which such Magistrate is by his ordinary jurisdiction competent to inflict.

Proviso.

Currency of sentence of escaped convicts.

47. When sentence shall be passed on an escaped convict for such escape or for any other offence, the Court may direct such sentence to take effect immediately, or after such escaped convict shall have suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

Judgment on offender already imprisoned under sentence for another crime.

48. When sentence shall be passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, or if such person shall be undergoing a sentence of imprisonment, and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately or at the expiration of the imprisonment to which such person shall have been previously sentenced: Provided that no-

* Where a person, though charged under defferent Sections, is convicted of what is substantially but a single offence, he cannot be sentenced as for separate offences under this Section to imprisonment for a period exceeding in the aggregate that to which he could have been sentenced for a single offence.—Reg. *v.* Gaun Ladu, 2, B. R., p. 132. It is an irregularity not to pass a separate sentence on each head of the charge, but not an error or defect under Section 426.—Reg. *v.* Pinayat Trimbak, 2, B, R., p. 415. To cut down Government trees without leave and appropriate them, constitute two offences.—Reg. *v.* Narayan Krishna, 2, B, R., p. 416.

Proviso.

thing in this Section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Local Government may order removal of a prisoner from one jail to another.

49. When any person is sentenced to imprisonment, it shall be lawful for the local Government to order the removal of such person during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same local Government.*

Place of transportation not to be specified in sentences.

50. When any person shall be sentenced to transportation, the Court passing the sentence shall not specify in its sentence the place to which such person shall be sent for the purpose of undergoing the sentence.

G. G. in C. to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

†51. It shall bel awful for the Governor-General of India in Council from time to time to appoint a place or places within British India to which persons sentenced to transportation shall be sent: and the local Government, or some Officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed.

Execution of sentence of transportation passed on persons already undergoing transportation under a previous sentence.

52. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the local Government to order the removal of such person from the place in which he is so undergoing transportation.

Sentence of death.

53. When any person shall be sentenced to death, the sentence shall direct that such person be hanged by the neck till he is dead.

The power of Government to remit penalties.

‡54. When any person has been sentenced to punishment for an offence, the Governor-General of India in Council, or the local Government, may, at any time, without conditions, or upon any conditions which such person shall accept, remit the whole or any part of the punishment to which he shall have been sentenced.

Party tried upon formal charge not liable to renewed prosecution.

55. A person who has once been tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried again for the same offence: Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death, if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

Proviso.

* The Central Jails at Benares, Allahabad, Agra, Furruckabad, Bareilly, and Meerut have been appointed, by G. O. No. 1614, in *Gazette of India*, 30th October, 1869, p. 412, for the North-Western Provinces, and for the Madras Presidency, the Central Jails at Rajahmundry, Vellore, Salem, Trichinopoly Coimbatore, and Cannanore, the District Jail at Mangalore, the Jail at Paumben, and the Penitentiary at Madras, see G. O. No. 953, in *Gazette of India*, 13th June, 1868, p. 959.

† Here read Section 49 A of Act VIII., 1869.

‡ The powers of a local Government as here described were conferred on the Resident at Hyderabad by G. O. No. 245, see *Gazette of India*, 20th February, 1869, p. 264.

A person charged with criminal breach of trust may be found guilty of theft.

56. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said Section 378.

A person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant.

57. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the said offence charged, but is guilty of the said offence under the said Section 378, or Section 381, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft may be found guilty of misappropriation or breach of trust.

58. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 403, or Section 405, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft as a servant may be found guilty of misappropriation.

59. If upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master, under Section 381 of the Indian Penal Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of

criminal breach of trust as a clerk or servant under Section 408 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the offence under the said Section 403, Section 404, Section 405, or Section 408, as the case may be: and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

No person charged under the last four Sections, and found guilty, liable to be charged again.

60. No person charged and tried for an offence under any Section of the Indian Penal Code in the last four Sections of this Act mentioned, and found guilty of another offence under the provisions of any other of the said Sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the Section under which he was charged, or under the Section under which he was found guilty.

61. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 61 *of that Act substituted. See Section* 5 *of Act I.*, 1868.

Magistrate may issue orders to prevent obstructions, &c.

62. It shall be lawful for any Magistrate, by a written order, to direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate shall consider that such direction is likely to prevent, or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, or is likely to prevent, or tends to prevent, danger to human life, health, or safety, or is likely to prevent, or tends to prevent, a riot or an affray.

Magistrate may prohibit the repetition or continuance of public nuisances.

63. Any Magistrate may enjoin any person not to repeat or continue a public nuisance.

CHAPTER IV.

Of the Summons.

Proceeding to compel appearance.

64. When an offence has been committed, or is supposed to have been committed, the proceeding, in order to compel the person known or suspected to have committed such offence to appear for the purpose of enquiry concerning the same, may be by summons or arrest.

Complaint.

65. A summons or a warrant of arrest may be obtained on a complaint as hereinafter provided.

Examination of complainant.

66. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the District, such Magistrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant, and also by the Magistrate.*

* Here read Sections 66 A and 66 B of Act VIII., 1869.

Magistrate how to proceed on complaint.

67. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or in cases in which a warrant may issue, his warrant for causing the person accused to appear before himself or some other Magistrate having jurisdiction. If in the judgment of such Magistrate there be no sufficient ground for proceeding, he shall dismiss the complaint.

Magistrate may take cognizance of offences without complaint made.

* 68. Except as is otherwise provided in Chapter XI. of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge, and may issue a summons, or in cases where a warrant may issue, a warrant of arrest, against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person. The provisions of this Section shall not apply to the offences described in Chapters XIX., XX., and XXI. of the Indian Penal Code.

Proviso.

Summons, what it is to contain, and how to be directed.

69. Every summons issued by a Magistrate to an accused person shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the Appendix or to the like effect.

70. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 70 *of that Act substituted.*

Summons how to be served.

71. The summons shall be served on the accused personally, or in case the accused person shall not be found, it may be left for him with some adult male member of his family residing with him.

Mode of service if accused cannot be found, &c.

72. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving Officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Notwithstanding summons, warrant may issue in certain cases.

73. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Summons or warrant when grantable for an offence committed beyond local jurisdiction.

74. The Magistrate of the District, or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

75. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 75 *of that Act substituted.*

* See Note to Act XVIII., 1850.

CHAPTER V.

Of the Warrant and its Execution.

Form of warrant.

76. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in form (B) given in the Appendix, or to the like effect.

77. *Repealed, and Section 77 of Act VIII.*, 1869, *substituted.*

When directed to any person other than a Police Officer.

78. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

To several persons jointly.

79. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

Police Officer may endorse warrant to another Officer.

80. A warrant directed to a Police Officer may also be executed by any other Police Officer, whose name shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Magistrate issuing a warrant may personally superintend its execution.

81. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also at any time direct the arrest in presence of any person for whose arrest he is competent to issue a warrant.

All persons bound to assist in certain cases.

82. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police Officer is authorized to arrest.

Where a warrant of a Magistrate must be executed.

83. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

Warrant executed in another jurisdiction.

84. When any person against whom a warrant is issued by a Magistrate shall escape, go into, or be, in any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place; and if the person against whom the warrant is issued is arrested in such place, the Police Officer, or other person executing the warrant, shall carry him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and such person shall be willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom such person is brought, shall take bail of such person for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued. If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued. If the arrest be made within the

If arrest be made within the jurisdiction of a Supreme Court.

local limits of the jurisdiction of a Supreme Court of Judicature, the person accused, when arrested, shall be taken before the Chief Commissioner of Police, or a Police Magistrate. Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

If arrest be made within 20 miles, person arrested may be carried before the Magistrate who issued the warrant.

85. If the place of arrest, under the last preceding Section, be within twenty miles from the place at which the warrant was issued, the person arrested may be carried, in the first instance, before the Magistrate who issued the warrant.

86. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 86 *of that Act substituted.*

Warrants for execution within limits of Supreme Court to be addressed to Chief Commissioner or Magistrate of Police.

87. A warrant issued under the last preceding Section for execution within the local limits of a Supreme Court of Judicature, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in in Section 84 of this Act.

Magistrate how to proceed on arrest under his own warrant for an offence committed out of his jurisdiction.

88. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 74 of this Act, in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or take bail for his appearance before such Magistrate if the offence of which such person is suspected is bailable. When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the Sudder Court.

Subordinate Magistrate how to proceed in such cases.

89. If the arrest was made under a warrant issued under Section 74 of this Act by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed, shall issue his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police Officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued. If the offence of which the person arrested is suspected, shall have been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issued the warrant under Section 74 of this Act, shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

Notification of substance of the warrant.

90. A Police Officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

91. In making an arrest, the Police Officer or other person exe-

Warrant how to be executed.

cuting the warrant, shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting an endeavour to arrest.

92. If a person against whom a warrant of arrest is issued, shall forcibly resist the endeavour to arrest him, it shall be lawful for the Police Officer or other person executing the warrant, to use all such means as may be necessary to effect the arrest.

Search of house entered into by person against whom warrant has been issued.

93. If there is reason to believe that any person, against whom a warrant has been issued, has entered into, or is within any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking open outer door or window.

94. The Police Officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused, or of any other person, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open a zenanah or female apartment.

95. If information be received that a person accused of any offence, for which a warrant may issue, is concealed in a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant, shall take such precautions as may be necessary to prevent the escape of the accused person, and if the accused person shall not deliver himself up, the Police Officer or other person authorized to execute the warrant may, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance, break open such zenanah or apartment, and execute the process intrusted to him; first giving notice to any woman as aforesaid in such zenanah or apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and affording her every reasonable facility for withdrawing.

No unnecessary restraint.

96. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Party arrested to be forthwith taken before the Magistrate.

97. The Officer or other person executing the warrant, shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

No threat, promise, or caution as to disclosure by party arrested.

98. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

99. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 99 *of that Act substituted.*

CHAPTER VI.

Of Arrest without Warrant.

Police Officer may arrest without warrant in certain cases.

100. A Police Officer in the cases hereinafter mentioned may, without orders from a Magistrate and without a warrant, arrest—

First.—Any person who in the sight of such Police Officer shall commit an offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made, or a reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person who is found with stolen property in his possession.

Sixthly.—Any person who shall obstruct a Police Officer while in the execution of his duty.

Vagabonds.

101. An Officer in charge of a Police Station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such Station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or any person who is a reputed robber, house-breaker, thief, receiver of stolen property, knowing it to be stolen, or who is of notoriously bad livelihood.

Police may interfere to prevent offences.

102. It shall be the duty of every Police Officer to prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

Information to be communicated.

103. It shall be the duty of a Police Officer who shall receive information of a design to commit any such offence, to communicate such information to the Police Officer to whom he is subordinate, and to any other Officer whom it may concern to prevent or take cognizance of the commission of any such offence.

May arrest to prevent offences.

104. A Police Officer, knowing of a design to commit any such offence as aforesaid, may arrest without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

105. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel, or to prevent the removal or injury of any public land-mark or buoy or other mark used for navigation.

Person in charge of house entered into by another of whom Police Officer is in

106. If there is reason to believe that any person liable to arrest under this Chapter without a warrant, of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or

search, to allow ingress, &c.

place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure if ingress be not obtained.

107. If ingress to such house or place cannot be obtained under the last preceding Section, the Police Officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate. If no warrant can be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person charged with an offence refusing to give his name and residence.

108. Any person who is known or suspected to have committed an offence for which a Police Officer is not authorized to arrest without a warrant, and who shall refuse on demand of a Police Officer to give his name and residence, or shall give a name or residence which there is reason to believe to be false, may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person, and with a view to future proceedings.

Party arrested to be forthwith taken before the proper authority.

109. A Police Officer having made an arrest under this Chapter, shall take or send the person arrested without unnecessary delay before the Magistrate who has jurisdiction in the case, or before the Officer in charge of a Police Station.

Arrest for an offence committed in the sight of a Magistrate.

110. When any offence is committed in the presence of a Magistrate, such Magistrate may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Unlawful assembly to disperse on the order of a Magistrate, &c.

111. A Magistrate or Officer in charge of a Police Station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such unlawful assembly to disperse accordingly.

CHAPTER VII.

Of Escape and Re-taking.

Person arresting may re-take on escape, and deal with the party arrested as on original taking.

112. If a person lawfully arrested under the provisions of this Act shall escape, or be rescued, it shall be lawful for the Police Officer or other person from whose custody the person so arrested shall have escaped, or have been rescued, to make fresh pursuit, and re-take him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such Police Officer or other person might have done on an original taking.

May adopt the same measures as on original taking.

113. In order to re-take any person, as provided in the last preceding Section, the Police Officer or other person making such fresh pursuit, may adopt the same measures as he might have adopted on the original taking.

CHAPTER VIII.

OF SEARCH WARRANT.

114, 115. *Repealed by Section* 4, *Act VIII.*, 1869, *and Sections* 114 *and* 115 *of that Act substituted.*

Warrant to one Police Officer may be executed by another.

116. A search warrant directed to an Officer in charge of a Police Station may, if such Officer is not able to proceed in person, be executed by any Officer subordinate to such Officer. In such case the name of such subordinate Officer shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Warrant how to be executed out of jurisdiction of the Magistrate.

117. When it shall be necessary for a search warrant to be executed out of the jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose jurisdiction the warrant is to be executed shall endorse his name on the warrant, which shall be sufficient authority for the Police Officer charged with the execution of such warrant to execute the same within the said jurisdiction, or the search warrant may be directed to the Magistrate within whose jurisdiction the search is to be made, and such Magistrate shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if the warrant had been issued by himself.

Search warrants may be executed without endorsement in cases of emergency.

118. In any case in which there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police Officer charged with the execution of the search warrant may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued, without the endorsement of the Magistrate in whose jurisdiction that place is situate. If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be immediately taken to the Magistrate within whose jurisdiction it is found.

Procedure in such cases within local limits of the Supreme Court.

119. If the thing searched for be found within the local limits of a Supreme Court of Judicature, it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in the last preceding Section.

Magistrate may, when necessary, issue search warrant to be executed in the jurisdiction of another Magistrate.

120. In any case in which it may appear necessary, a Magistrate may, by the warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made. When a Magistrate issues a warrant under this Section, he shall inform the Magistrate within whose jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any Supreme Court of Judicature, he shall inform the Chief Commissioner of Police of the issue of such warrant.

121. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 121 *of that Act substituted.*

Persons in charge of dwelling-house, &c., to allow the search.

122. If the house or place to be searched is closed, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Officer or other person executing the warrant, to allow such Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

123. A Police Officer or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of the house or place, in order to execute such warrant, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open zenanah or female apartment.

124. If the place ordered to be searched is a zenanah or apartment in the actual occupancy of a woman who, according the customs of the country, does not appear in public, the Officer or other person charged with the execution of the warrant, shall give notice to such woman in such zenanah or apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw, and, after giving such notice, allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer or other person may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Search of house, &c., to be made in the presence of witnesses.

125. The search of any house or place under this Chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but such persons shall not be required to attend the Court of the Magistrate as witnesses unless specially summoned by such Magistrate. The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

Occupant of the place searched may attend.

Mode of searching females.

126. In any case in which it shall be necessary to cause a female to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

127. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 172 *of that Act substituted.*

Magistrate may attend personally.

128. The Magistrate by whom a search warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also direct a search to be made in his presence of any house or place, for the search of which he is competent to issue a search warrant.

Inspection of weights and measures used in shops.

129. An Officer in charge of a Police Station may, without a warrant, enter any shop or premises within the limits of such Station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he shall have reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false. If such

Police Officer shall find in such shop or premises any weights measures, or other instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

CHAPTER IX.

PRELIMINARY ENQUIRY BY THE POLICE.

130—132. *Repealed by Section* 4, *Act VIII.*, 1869, *and Sections* 130, 131, 132, 132*A*, 132*B*, *and* 132*C*, *substituted.*

133. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 133 *of that Act substituted.*

Saving of powers vested in Police Officer by any special or local law.

134. Nothing in the last preceding Section shall be held to interfere with the exercise of any powers which are vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Upon complaint preferred, Officer in charge of Police Station to proceed in person or to send a subordinate Officer to make enquiry.

135. Upon complaint or information being preferred to an Officer in charge of a Police Station of the commission within the limits of such station of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without warrant, he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person, or shall depute one of his subordinate Officers to proceed to the spot, to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender. Any Magistrate on receiving intimation of the commission of any such offence, may at once proceed, or depute an Officer exercising any of the powers of a Magistrate to proceed, to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

Except in cases not of a serious nature where local enquiry is not necessary.

136. Provided that when any complaint is made against any person by name and the case is not of a serious nature, it shall not be incumbent on the Officer in charge of a Police Station to proceed in person, or to depute a subordinate Officer to make an enquiry on the spot, unless such local enquiry shall appear to be necessary.

137. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 137 *of that Act substituted for it.*

All persons to give information of offences.

138. It shall be the duty of every person who is aware of the commission of any offence made punishable under Section 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460, of the Indian Penal Code, to give information of the same to the nearest Police Officer, whenever he shall have reason to believe that, if such information be withheld, the person who committed the offence may not be brought to justice, or may have his escape facilitated.

Complaint, &c., to be in writing.

139. Every complaint or information preferred to an Officer in charge of a Police Station, shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by such Officer, in such form as shall be prescribed by the local Government.

140. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 140 *of that Act substituted for it.*

Police may pursue offenders into other jurisdictions.

141. It shall be lawful for a Police Officer to pursue, with a view to arrest, any person accused of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without a warrant, into the limits of another Police Officer, whether subordinate to the same Magistrate as himself, or the Magistrate of any other District, and whether such place be under the same local Government or not.

Issue of search warrants by Officer in charge of Police Station.

142. Whenever an Officer in charge of a Police Station shall consider that the production of any thing is essential to the conduct of an enquiry into any offence which he is authorized to investigate, it shall be lawful for him to search or cause a search to be made for the same, in any house or place within the limits of such station. In such case, the Officer in charge of the Police Station shall, if practicable, conduct the search for such thing in person. If unable to conduct the search in person, and there is no other person competent to make the search present at the time, it shall be lawful for the Officer in charge of the Police Station to require any Officer subordinate to him to make the search, and he shall deliver to such Officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and it shall thereupon be lawful for such Subordinate Officer to search for such property in such house or place. The provisions of Sections 122, 123, 124, and 125 of this Act relating to search warrants, shall be applicable to a search made by or under the direction of an Officer in charge of a Police Station under this Section.

When one Officer of a Police Station may require another to issue a search warrant.

143. An officer in charge of a Police Station may require an Officer in charge of another Police Station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which he might cause such search to be made within the limits of his own Station.

Witnesses to be summoned.

144. An Officer in charge of a Police Station may, by an order in writing, require the attendance before himself of any person being within the limits of his station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under Section 135 of this Act, and such person shall be bound to obey such requisition.

Oral examination of witnesses by Police.

145. It shall be lawful for an Officer in charge of a Police Station or other Police Officer making an enquiry, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. Nothing in this Section shall preclude such Police Officer from reducing into writing any statement made by the person so examined: Provided that any statement so reduced into writing shall not be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

Proviso.

No inducement to be offered to an accused person to confess.

146. No Police Officer or other person shall offer any inducement to any accused person by threat or promise otherwise to make any disclosure or confession.

147. No Police Officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence: Provided that nothing in this Section shall preclude any Police Officer from reducing any such statement or admission or confession into writing for his own information or guidance.

Police not to record confessions.

Proviso.

148. No confession or admission of guilt made to a Police Officer, shall be used as evidence against a person accused of any offence.

Confession made to a Police Officer shall not be used as evidence.

149. No confession or admission of guilt made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be used as evidence against such person.

Confession made while the accused is in custody of the Police shall not be used as evidence.

150. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 150 *of that Act substituted for it.*

151. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the Officer in charge of the Police Station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate. When any Subordinate Police Officer has made any enquiry under this Chapter, he may be required by the Officer in charge of the Police Station to submit a report of such enquiry to him, or may do so without such instructions, and the Officer in charge of the Police Station shall then proceed as if he had made the enquiry himself.

Enquiry by the Police.

152. No Police Officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable: such period in no case to exceed twenty-four hours. If the enquiry has not been completed within twenty-four hours, the Officer in charge of the Police Station shall, nevertheless, forward the accused to the Magistrate, with a short despatch stating the offence for which the accused has been arrested, if there are grounds for believing that the accusation is well founded.

Accused not to be detained by the Police beyond 24 hours without special authority.

153. If it shall appear to the Officer in charge of the Police Station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate, he shall release the accused on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate.

Police how to proceed in cases of deficient evidence.

154. A Police Officer making an enquiry under this Chapter, shall day by day enter his proceedings in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry, and shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the

Daily record of proceedings.

District any part of such diary which he shall consider it to be important that such Magistrate shall know. The Magistrate of the District shall be entitled to call for and inspect such diary. In cases where there is no District Superintendent of Police, the Police Officer shall forward day by day a copy of the diary to the Magistrate of the District. Such diary shall not be evidence of the facts stated therein, except against the Police Officer who made it.

Report of Police Officer of what to consist.

155. The enquiry shall be completed without unnecessary delay, and as soon as it is completed, the Police Officer making the enquiry shall forward to the Magistrate a report in such form as shall be prescribed by the local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused person, and shall also transmit any weapon or article which it may be necessary to produce before the Magistrate. The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance. If the accused person be detained in custody, he shall state the fact and the cause of his detention.

Bail.

156. A person accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him. But a person accused of any other offence shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive. Terms of security.

157. The bail to be taken under the last preceding Section shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person, before the Magistrate on or before a fixed day, to answer the complaint.

158. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 158 *of that Act substituted for it.*

Prosecutors and witnesses not to be subjected to any restraint.

159. A Police Officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require them to give any other security for their appearance than their own recognizances; but if any prosecutor or witness shall refuse to attend, or to execute the recognizance directed in the last preceding Section, it shall be competent to the Officer in charge of a Police Station to forward such prosecutor or witness under custody to the Magistrate, who may detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the hearing before the Magistrate.

Recusant prosecutor or witness may be forwarded in custody.

Police to report all arrests.

160. Officers in charge of Police Stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective stations, whether such persons shall have been admitted to bail or otherwise; and no person who has been apprehended shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

161. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 161 *of that Act substituted for it.*

By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness.

162. The powers to be exercised by an Officer in charge of a Police Station under this Chapter, shall be exercised in the event of his absence or illness by the Police Officer next in rank present at the Police Station, above the rank of a constable, peon, or burkundaz.

CHAPTER X.

Of Contempts and Disobedience of Orders.

Procedure in certain cases of contempt.

163. When any such offence as is described in Section 175, 178, 179, 180, or 228, of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding 200 Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court in any case shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding 200 Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53, George III., c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature. In no case tried under this Section shall any Magistrate adjudge imprisonment or a fine exceeding 200 Rupees for any contempt committed in his own presence against his own Court.

164. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 164 *of that Act substituted for it.*

Procedure, in all except certain cases, when the offender is a

165. When any such offence as is described in Chapter X. of the Indian Penal Code, except Sections 175, 178, 179, and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court

European British subject.

by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by the Statute 53, George III., c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender on conviction in the same manner as is provided in that behalf in the said Statute. If such Magistrate shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

CHAPTER XI.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for certain offences not to be instituted, but under authority of Government or of an Officer duly empowered.

166. A charge of an offence punishable under Chapter VI. of the Indian Penal Code, except Section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor-General of India in Council, or the local Government, or some Officer empowerd by the Governor-General in Council to order or authorize such prosecution, or unless instituted by the Advocate-General.

Prosecution against Judges, &c.

167. A charge of an offence punishable under the Indian Penal Code, of which any Judge or any public servant not removable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the local Government, or of some Officer empowered by the local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the local Government shall not think fit to limit or reserve.

Prosecution for certain offences under Chapter X. of the Penal Code not to be instituted, but with the sanction of the public servants concerned.

168. A charge of a contempt of the lawful authority of any Court or public servant, or of any other offence against a public servant as such, described in Chapter X. of the Indian Penal Code, not falling within Section 163 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the Court or public servant concerned, or, if such servant is an inferior ministerial servant, with the sanction or on the complaint of his official superior. The prohibition contained in this Section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

Prosecution for certain offences against public justice not to be instituted, but with sanction of the authority before which the offence was committed.

169. A charge of an offence against public justice, described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228, of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction* of the Civil or Criminal Court before or against which

* Such sanction should be expressed in general terms: if leave be granted to prosecute under any particular Section the mention of the Section, will be treated as mere surplusage. Reg. *v.* Khushal Hiramon and others, 4, B. R., C. C., p. 30.

the offence was committed, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Prosecution for certain offences relating to documents, not to be instituted but with the sanction of the Court in which such documents were given in evidence.

170. A charge of an offence relating to documents described in Section 463, 471, 475, or 476, of the Indian Penal Code, when the document shall have been given in evidence in any proceedings in any Court, Civil or Criminal, shall not be entertained in any Criminal Court against a party to such proceedings, except with the sanction* of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Mode of proceeding in cases mentioned in the last three preceding Sections.

171. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding Sections, the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law, and the Court shall have power to send the accused person in custody, or to take sufficient bail for his appearance before such Magistrate, and may bind over any person to appear and give evidence on such investigation.

Power of Court of Session in respect of such offences committed before it

172. It shall be competent to a Court of Session to charge a person for any such offence committed before it or under its own cognizance, if the offence be triable by the Court of Session exclusively, and to commit or hold to bail and to try such person upon its own charge. In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence which is vested in a Magistrate by this Act. Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

173. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 173 *of that Act substituted for it.*

Procedure by Civil Court in such cases.

174. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and shall transmit the same with the order of commitment and the record of the case to the Magistrate of the District, or other Officer exercising any of the powers of a Magistrate, and such Magistrate or other Officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Court of Session or Civil Court may exercise all powers of a Magistrate as to binding over persons to give evidence.

175. Whenever any Court of Session or Civil Court shall commit or hold to bail any person for trial under the last three preceding Sections, such Court may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

176. If any such offence, triable by the Court of Session exclusive-

* Such sanction should be expressed in general terms : if leave be granted to prosecute under any particular Section, the mention of the Section will be treated as mere surplusage.—Regina *v.* Khushal Hiramon and others, 4, B. R., C. C., p. 30.

Magistrates not empowered to commit, to send the case to Magistrate competent to do so.

ly, be committed before a Magistrate not empowered to commit for trial before a Court of Session, such Magistrate shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he may think proper.

Prosecution for adultery not to be instituted except by the husband.

177. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

178. A charge of an offence under Section 498 of the Indian Penal Code, shall not be instituted, except by the husband of the woman, or by the person having the care of such woman on behalf of her husband.

CHAPTER XII.

Of Preliminary Enquiry by the Magistrate in Cases triable by the Court of Session.

179. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 179 *of that Act substituted for it.*

Postponement of issue of process.

180. If the Magistrate see cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any Officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he shall judge most proper, for the purpose of ascertaining the truth or falsehood of the complaint. If such enquiry is made by means of some person other than an Officer exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers vested by this Act in an Officer in charge of a Police Station, except that he shall have no power to make an arrest. Nothing contained in this Section shall prevent the Magistrate from at once dismissing the complaint, if in his judgment there be no sufficient ground for proceeding with it.

May dismiss the complaint.

Magistrate may direct bail to be taken.

181. It shall be in the discretion of the Magistrate in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if such person be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate to be named in the warrant on a specified day to answer the complaint, the Officer to whom the warrant is directed, shall accept such bail, and shall release the person from custody. In the event of bail being given, the Officer shall forward the bail-bond to the Magistrate.

Magistrate may dispense with the personal attendance of the accused.

182. The Magistrate may, if he see sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf. But it shall be in the discretion of the Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

Proclamation for an absconding party.

183. If any person accused of an offence absconds or conceals himself, so that upon a warrant issued against him he cannot be found, the Magistrate shall, if satisfied

that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some conspicuous place of the town or village in which such person usually resides, and shall be affixed on some conspicuous part of the ordinary place of abode of such person, or on some conspicuous place of such town or village. A copy of the proclamation shall also be affixed on some conspicuous part of the Court-house of the Magistrate.

Attachment of the property of the absconding party.

184. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed. The attachment under this Section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all other cases by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate shall deem proper. If the absent person shall not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six calendar months, unless such property is of a perishable nature, or it shall be considered by the Magistrate that the sale would be for the benefit of the owner.

185. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 185 *of that Act substituted for it by Section* 4.

Summons to a witness to attend and give evidence.

186. The Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such Magistrate to testify what they know concerning the complaint made against the accused person.

187. *Repealed by Section* 2, *Act VIII.*, 1869.

In what cases warrant in the first instance.

188. If the Magistrate shall see reason to believe that such witness will not attend to give evidence without being compelled to do so, it shall be lawful for such Magistrate, instead of issuing a summons, to issue his warrant in the first instance.

If the warrant cannot be served.

189. If warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, the Magistrate may issue a proclamation requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode; and if such witness shall not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to

such amount as he shall deem reasonable, not being in excess of the amount of costs of attachment, and of any fine to which such witness may be liable under the provisions of the following Section. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed.

If witness on attachment appear and satisfy Magistrate, his property to be released from attachment.

190. If the witness shall appear and satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he shall deem fit. If such witness shall not appear, or appearing shall fail to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, it shall be lawful for the Magistrate to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Magistrate may impose upon such witness under the provisions of Section 172 of the Indian Penal Code. If the witness shall pay to the Magistrate the costs and fine as aforesaid, the Magistrate shall order the property to be released from attachment.

If he do not appear or satisfy Magistrate, property to be sold.

If he do not obey the summons, then warrant.

191. If any person summoned to give evidence, shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the Magistrate, upon proof of the summons having been duly served, to issue a warrant, under his hand and seal, to bring such person before him to testify as aforesaid.

Refusing to answer, may be committed to custody.

192. If any person summoned or brought before a Magistrate, shall refuse to answer such question as shall be put to him, without offering any just excuse for such refusal, the Magistrate may, by warrant, under his hand and seal, commit the person refusing to custody for any term not exceeding seven days, unless he shall, in the meantime, consent to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of complainant and witnesses for the prosecution.

193. The Magistrate shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

To be in the presence of the accused, who may cross-examine.

194. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent when his personal attendance is dispensed with, and he appears by agent. The accused or his agent shall be permitted to cross-examine the complainant and his witnesses.

Mode and language in which the evidence is to be recorded.

* 195. The evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing, and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate. When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the District in which the Court is held, shall form part of the record. In cases in which the evidence is not taken down in writing by the Magistrate, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Government may direct the evidence to be recorded in the vernacular of the Magistrate.

196. It shall be competent to the local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended under the provisions of Section 445 of this Act, the evidence of witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence so taken down shall be signed by the Magistrate, and form part of the record: Provided that, if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Magistrate may be directed by the local Government to take down the evidence in the English language or in the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

Proviso.

Government to decide what is the language in ordinary use in any District.

197. If any question shall arise as to what is the language in ordinary use in any District in which a Court is held, that question shall, for the purposes of this Act, be determined by the local Government.

Evidence how to be recorded.

†198. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any person who is a prosecutor, or a person accused, or his counsel or agent, shall require it. When the evidence is completed, it shall be read over to the witness in the presence of the accused person if in attendance, or of his agent when his personal attendance is dispensed with and he appears by agent, and shall, if

* A Sessions Judge does not comply with the provisions of this Section by merely stating that a particular witness deposes as the last. Reg. *v.* Byha, 1, B. R., p. 91.

† Suspended as to the High Court of Judicature for the North-Western Provinces, by Section 2, Act XIII. of 1869.

necessary, be corrected. If the witness shall deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Memorandum to be attached to the evidence.

199. A memorandum, to be signed by the Magistrate, shall be attached to the evidence of each witness, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and if the fact is so, that the witness acknowledged such evidence to be correct. When the evidence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in the presence and hearing of the Magistrate, and under his personal direction and superintendence.

In what cases evidence to be interpreted to the accused or his agent.

200. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court, in a language understood by him, in all cases where the accused is present in person. If the accused person appears by agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such agent in that language.

Power of Magistrate at any stage to summon and examine.

201. It shall be in the discretion of the Magistrate at any stage of the proceedings to summon and examine any person whose evidence he may consider essential to the enquiry.

Examination of defendant.

202. It shall be in the discretion of the Magistrate, from time to time, at any stage of the enquiry, to examine the accused person, and to put such questions to him as he may consider necessary. It shall be in the option of the accused person to answer such questions.

203. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 203 *of that Act substituted for it.*

Accused persons not to be sworn.

204. No oath or affirmation shall be administered to the accused person.

Examination of the accused how to be recorded.

* 205. The examination of the accused person, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers; and when the whole is made con-

* When the examination of the accused is not recorded in accordance with this Section, it is not admissible in evidence at the trial under Section 366. Reg. *v.* Trinnie, 2, B. R., p. 131. Reg. *v.* Kalla Lakhmaji, 2, B. R., p. 419. If the examination would, either alone or with the other evidence, be sufficient for conviction, the proper course is to remand. Reg. *v.* Pevada, 2, R. B., p. 420. If the evidence, exclusive of the examination, be sufficient to convict, a remand is unnecessary. Reg. *v.* Vithoji, 2, B. R., p. 421.

formable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Any person in attendance may be detained for any offence committed by him.

206. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Discretion to the Magistrate to take evidence for the defence.

207. It shall be at the discretion of the Magistrate to summon any witness who may be offered in behalf of the accused person to answer or disprove the evidence against him.

Witnesses for the defence.

208. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act, shall be applicable to witnesses named in support of the defence.

209—211. *Repealed by Section* 4, *Act VIII.*, 1869, *and Sections* 209, 210, and 211 *of that Act substituted for them.*

Bail not to be taken for certain offences.

*212. When any person shall appear or be brought before a Magistrate accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him; but if the evidence given in support of the accusation shall, in the opinion of the Magistrate, not be such as to raise a strong presumption of the guilt of the accused person and to require his committal, or such evidence shall be adduced on behalf of the accused person as shall, in the opinion of the Magistrate, weaken the presumption of his guilt, but there shall appear to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt, the accused person shall be admitted to bail pending such enquiry.

When may be taken.

When bail shall be taken.

213. When any person shall appear or be brought before a Magistrate accused of any of the offences specified in Column 5 of the Schedule annexed to this Act as bailable, he shall be admitted to bail.

Recognizance of accused and his sureties.

214. When a Magistrate shall admit to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate may think sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and if required, shall appear when called upon at the Court of Session to answer the charge.

Insufficient bail.

215. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and in default, may be committed to prison.

See Note to Act XVIII., 1850.

Bail may be taken at any time before conviction.

216. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Discharge on bail.

217. After the recognizances shall have been duly entered into, the Magistrate, in case the accused person shall have appeared voluntarily, or shall be in the custody of some Officer, shall thereupon discharge him; and in case he shall be in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

Discharge of sureties.

218. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements. On such an application being made, the Magistrate shall issue his warrant, directing that such person be brought before him. On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and in default, may order him to be committed to prison.

Proceedings to compel payment of penalty by the accused.

219. Whenever by reason of default of appearance for the person executing the personal recognizance, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person which may be found within the jurisdiction of the Magistrate of the District.

Proceedings to compel payment of penalty by the sureties.

220. Whenever by reason of default of appearance by the person bailed, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid; and, if no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachments and sale of any moveable property belonging to such surety or sureties which may be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil Jail, during a period not exceeding six months.

221 and 222. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 221 *of that Act substituted for them.*

With whom to be lodged.

223. The warrant of commitment shall be lodged with the Jailor, if he be in the Jail; and if he be not in the Jail, with his deputy. If the Jailor has no deputy, the warrant may be lodged with any Officer of the Jail then being in the Jail.

Magistrate may adjourn the enquiry, when.

224. If from the absence of a witness or from any other reasonable cause, it shall become necessary or advisable to defer the examination, or further examination, of witnesses, it shall be lawful for the Magistrate by a written order, from time to time, to adjourn the enquiry, and to remand the accused person for such time as shall be deemed reasonable, not exceed-

ing fifteen days: Provided that, instead of detaining the accused person in custody during the period for which he shall be so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

Accused when to be discharged.

225. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapter XIV. of this Act.

When defendant to be committed for trial.

226. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. If the Magistrate is a Justice of the Peace, and the accused person is a European British subject, he shall be sent for trial before the Supreme Court of Judicature.*

Copy of charge to be furnished to accused person.

227. As soon as the charge on which the accused person is to be tried has been prepared as hereinafter directed, it shall be read to him, and a copy or translation of it shall be furnished to him, if he require it. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court. It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time. The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 187, 188, 189, 190, 191, and 192, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused person in the list above mentioned.

Witnesses for the defence on the trial.

Magistrate may refuse to summon any unnecessary witness, unless deposit be made to defray his expenses.

228. If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness.

The record to be forwarded to the Superior Court.

229. When a commitment is made to the Court of Session, the record to the Magistrate shall be forwarded to such Court together with any weapon or other article of property connected with the case. When a commitment is made to the Supreme Court of Judicature, such record and such

* After this Section read Section 226A. of Act VIII., 1869.

weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record shall not be in the English language, a translation thereof in the English language shall be forwarded therewith.

Copies of depositions to be given to accused.

230. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions, which shall be made at his expense.

When commitment is made, the Magistrate to give notice to the Government Pleader, &c.

231. When the accused person is committed to take his trial before the Court of Session, the Magistrate shall issue an order to the Government Pleader or other Officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge. Nothing in this Section shall preclude the Magistrate, if he shall think fit, from appointing a person other than such Government Pleader or Officer to conduct the prosecution.

Recognizances of prosecutors and witnesses.

232. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the appendix, or to the like effect, to be in attendance when called upon at the Court of Session, to prosecute or to give evidence as the case may be. If any prosecutor or witness shall refuse to attend before the Court of Session or to execute the recognizance above directed, it shall be competent to the Magistrate to detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall forward such prosecutor or witness under custody to the Court of Session.

CHAPTER XIII.

Of the Charge.

What the charge is to contain.

233. When the Magistrate has determined to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct the accused person to be tried by such Court on such charge. A copy of this instrument shall be forwarded with the record of the preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the Public Prosecutor or to the Officer appointed to conduct the prosecution.

How the offence is to be described.

234. The charge shall describe the imputed offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the Section under which such offence is punishable.

Absence of General Exceptions under the Penal Code to be assumed.

235. It shall not be necessary to allege in the charge any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come within any of the General Exceptions contained in Chapter IV. of the Indian Penal Code, but every charge shall be understood to assume the absence of all such circumstances.

236. It shall not be necessary at the trial, on the part of the prosecutor, to prove the absence of such circumstances in the first instance; but the accused person shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to General Exception.

237. When the Section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exception so contained in the Section, without a distinct denial of the existence of such circumstances.

Special ground of exception from absence of circumstances not to be assumed.

238. The charge may contain one or more heads.

Charge may contain one or more heads.

239. When a charge contains one head only, the form shall be as follows, or to the same effect:

Heads of charge.

(a.) I, A [*name and Office of Magistrate, &c.,*] declare that there is hereby made against Z the charge—

(b.) That he, on or about the day of at , waged war against the Queen, and that he has thereby committed an offence punishable under Section 121 of the Indian Penal Code, *(c)* and within the cognizance of the Court of Session.

(d.) And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

To be substituted for *(b.)*

(2.) That he, on or about the day of at , with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3.) That he, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for his, the said Z's, forbearing to do an official act, and that he has thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4.) That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That he, on or about the day of at , abetted the commission of suicide by A. B., a person in a state of intoxication, and that he has thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

(6.) That he, on or about the day of at , voluntarily caused grievous hurt to and that he has thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

(7.) That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

(8.) That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other Sections of the Indian Penal Code.

Charges in cases falling within two or more Sections of the Penal Code.

240. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more Sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such Sections.

Two or more offences punishable under the same Section

241. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same Section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

Cases of doubt as to the Section which is applicable, or the offence which may be proved.

242. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one of two or more Sections of the Indian Penal Code, but it is doubtful which of such Sections will be applicable, or show the commission of one of two or more offences falling within the same Section of the said Code, but it is doubtful which of such offences will be proved, the charge shall contain two or more heads, framed respectively under each of such Sections, or charging respectively each of such offences accordingly.

Forms of charge of more than one head.

243. When a charge contains more heads than one, the form shall be as follows, or to the same effect:

I, A [*name and office of Magistrate or other Officer as aforesaid, &c.,*] declare that there is hereby made against Z the charge—

First.—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and that he has thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as genuine, and that he has thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

First.—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

First.—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That he, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of his escape after the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That he, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other Sections of the Indian Penal Code.

Amendment of charge.

244. It shall be competent to any Court before which a trial is held, at any stage* of the trial, to amend or alter the charge.

When the trial may be proceeded with forthwith after amendment.

245. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When a new trial may be ordered, or trial suspended.

246. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Defendant may recall and examine witnesses already examined.

247. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

* The charge cannot be altered after verdict.—Reg. *v.* Shaik Ali, 5, B. R., C. C., 10.

CHAPTER XIV.

Of Cases Triable by the Magistrate in which a Warrant on Complaint may issue.

248, 249. *Repealed by Section* 4, *Act VIII.*, 1869, *and Sections* 248, 249 *of that Act substituted for them.*

Charge.

250. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate shall consider necessary, have been taken, the Magistrate, if he find that no offence has been proved against the accused person, shall discharge him. If the Magistrate find that an offence is apparently proved against the accused person which falls within the definition in a certain Section of the Indian Penal Code, or within one or other of the definitions in several Sections of the said Code, he shall prepare in writing a charge against the accused person in the manner prescribed in Chapter XIII. of this Act, all the provisions of which shall be applicable to charges prepared under this Section. In charges prepared under this Section the words "within my cognizance" shall be substituted for the words "within the cognizance of the Court of Session" at the end of the charge, and the words "by the said Court" omitted in the order.

Plea.

251. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Plea of claim to be tried.

252. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

Evidence for the defence.

253. The Magistrate shall summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for this purpose, at his discretion, adjourn the trial from time to time, as may be necessary.

Witnesses for the defence.

254. The provisions of Sections 187, 188, 189, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Acquittal or conviction.

255. If the Magistrate shall find the accused person not guilty, he shall record judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Magistrate how to proceed if, after trial commenced, he finds the case beyond his jurisdiction.

256. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or which, in the opinion of such Magistrate, ought to be tried by the Court of Session, the Magistrate shall stop further proceedings under this Chapter, and shall proceed in accordance with Chapter XII. of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

CHAPTER XV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.

257. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 257 *of that Act substituted for it.*

Defendant may be admitted to bail or to be at large upon personal recognizance.

258. If upon the day appointed, the accused person shall appear voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit the accused person to bail, or allow him to be at large upon his personal recognizance, as the Magistrate may direct. If the accused person cannot give bail when required to do so, he shall be committed to custody.

Non-appearance of complainant.

259. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear the Magistrate shall dismiss the complaint; unless for some reason he shall think proper to adjourn the hearing of the same to some other day, upon such terms as he shall think fit.

If summons be not obeyed, then warrant.

260. If the person served with a summons shall not appear before the Magistrate at the time mentioned in such summons, and the Magistrate shall be satisfied that the summons was duly served in what shall be deemed by the Magistrate to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the Magistrate that after due diligence the summons could not be served according to the provisions of this Act, the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

261. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person complained against, and permit him to appear by an Agent duly authorized to act in his behalf: Provided that it shall be at the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of such person. When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the Agent if the accused person has been permitted to appear by Agent, or the accused person may be required to attend to hear such sentence.

Summons to witness to attend and give evidence.

262. If it appear to the Magistrate that any person is likely to give material evidence on behalf of the complainant or the accused person, and such person will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such complaint, the Magistrate shall issue his summons to such person under his signature and seal, requiring him to appear at a time and place mentioned in the summons to testify what he knows concerning the matter of the complaint.*

* After this Section, read Section 226 A of Act VIII., 1869.

Magistrate may summon necessary evidence.

263. It shall be at the discretion of the Magistrate, at any stage of the trial, to summon and examine any witness whose evidence he may consider essential to the just decision of the case. The Magistrate may also examine as a witness any person in attendance, although not summoned as a witness.

Application of previous rules.

264. The provisions of Sections 187, 188, 189, 190, 191, and 192, shall be applicable to witnesses summoned according to the provisions of Sections 262 and 263 of this Act.

Admission by accused of truth of complaint.

265. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted. If the accused person admit the truth of the complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Proceeding when no such admission is made.

266. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he may produce in support of his complaint, and also to hear the accused person and such witnesses as he shall produce in his defence.

Evidence how to be recorded.

267. The Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds. The memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record. The Magistrate shall record such remarks as he shall think material respecting the demeanor of any witness whilst undeur examination.

Manner of recording evidence in certain cases.

268. In any case in which the Magistrate shall consider it necessary, it shall be competent to him, instead of taking down merely the substance of the evidence of any witness, to take down the evidence of the witness in the manner provided in Section 195, or in the manner provided by Section 196 of this Act, if within the jurisdiction of such Magistrate the local Government shall have made an order as provided in that Section. In any such case the provisions of Sections 199 and 200 shall be applicable to the evidence so taken.

Adjournment.

269. Before or during the hearing of any complaint, it shall be lawful for the Magistrate to adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties; and if on the day to which such hearing or such further hearing shall have been so adjourned the accused person shall not appear, the Magistrate may issue his warrant for the arrest of such person, and if the complainant shall not appear, the Magistrate may dismiss the complaint.

270. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 270, *of that Act substituted for it.*

271. If a complainant at any time before a final order is passed in any case under this Chapter, shall satisfy the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit such complainant to withdraw such complaint. A complaint withdrawn under this Section shall not again be entertained.

Magistrate may permit withdrawal of the complaint.

272. If the Magistrate, in any case tried under this Chapter, shall find the accused person not guilty, he shall record a judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Acquittal or conviction.

CHAPTER XVI.

OF ENQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.

273. Criminal cases brought before the Magistrate of the District or a Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him. The reference shall be for enquiry or for trial if the offence be triable by such subordinate Magistrate, or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session, or with a view to commitment to the Supreme Court of Judicature if such Subordinate Magistrate is competent to commit to such Supreme Court: Provided that nothing in this Section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police Officer (in cases in which the Subordinate Magistrate is authorized to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Reference of cases to Subordinate Magistrate.

Proviso.

274. When a criminal case is referred under this Chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Cases how to be referred.

275. In the enquiry into or trial of cases under this Chapter, the Subordinate Magistrates shall be guided by the rules prescribed for the guidance of the Magistrate of the District in similar cases; and Police Officers and others shall be bound to obey all orders and processes issued in such cases in like manner as if such order or processes had been issued by the Magistrate of the District.

Subordinate Magistrates to follow the same rules of procedure as the Magistrate.

276. *Repealed by Section* 4, *Act* VIII., 1869, *and Section* 276 *of that Act substituted for it.*

* 277. If in any case tried by a Subordinate Magistrate having

* A second class subordinate Magistrate cannot submit his proceedings under this Section to the full power Magistrate; it must be to the Magistrate of the District. Reg. *v.* Kuberio Ratuo, 4, B. R., C, C., p. 8. Reg. *v.* Bagu and others, *Ibid*, p. 34; and Reg. *v.* Dipchand Khushel, *Ibid*, p. 30.

In what cases Subordinate Magistrate shall not pass sentence, but may refer case to the Magistrate.

jurisdiction in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any case the Magistrate to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Magistrate how to proceed in such cases.

278. Nothing in the last preceding Section shall be held to prevent the Subordinate Magistrate in any such case as is therein described, if such Magistrate is empowered to hold the preliminary enquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, from committing the accused person for trial before the Court of Session instead of finding him guilty. If the Subordinate Magistrate shall be of opinion that the accused person should be committed for trial before the Court of Session, he shall proceed in accordance with Chapter XII. of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

Subordinate Magistrate, if empowered to do so, may, in lieu of convicting the accused, commit him for trial before the Court of Session.

Procedure in such cases.

CHAPTER XVII.

Place where Preliminary Investigations and Trials held, an open Court.

279. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or Supreme Court of Judicature, or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them; but it shall be lawful for any such Court, if it shall think fit, to order that, during the investigation into any particular case triable by a Court of Session or by a Supreme Court of Judicature, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

Place where investigation is made an open Court.

CHAPTER XVIII.

Of Recognizance and Security to keep the Peace.

280. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 280 *of that Act substituted for it.*

281. In cases in which it may appear necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, it shall also be lawful to the Court or Magistrate or other Officer as aforesaid empowered to require a penal recognizance under the last preceding Section, to require security in addition thereto and to fix the

Security to keep the Peace.

amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year, if the order be passed by the Magistrate of the District, or other Officer exercising the powers of a Magistrate, or three years, if the order be passed by the Sudder Court or by a Court of Session.

Summons to any person to show cause why he should not enter into a bond to keep the peace.

282. It shall be lawful for the Magistrate of the District, or other Officer exercising the powers of a Magistrate, whenever he shall receive credible information that any person, whether a European British subject or not, is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, to summon such person to attend at a time and a place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate shall think fit.

Form of the summons.

283. The summons shall set forth the substance of the information, the amount of the bond, and the term for which it is to be in force, and if security is called for, the number of sureties required, and the amount in which they are to be bound respectively. Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

Penalty.

284. The penalty of such bond, which shall be in the form (D) given in the Appendix, or to the like effect, shall be fixed with a due regard to the circumstances of the case and the means of the party, and the amount in which the sureties shall be bound shall not exceed the said penalty.

Warrant of arrest.

285. If the person summoned shall not attend on the day appointed, the Magistrate or other Officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest: Provided that, whenever it shall appear to the Magistrate or other Officer as aforesaid, upon the report of a Police Officer or upon other credible information, the substance of which report or information shall be recorded, that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, it shall be lawful for the Magistrate at any time to issue a warrant for the arrest of such person.

Magistrate may dispense with the personal attendance of the party informed against.

286. The Magistrate or other Officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against, and permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of party informed against.

287. If on the appearance of the person, or of his agent if he is permitted to appear by agent, the Magistrate or other Officer as aforesaid shall not be satisfied that there is occasion to bind such person to keep the peace, he shall direct his discharge.

Consequence of not complying with order

288. If the Magistrate or other Officer as aforesaid shall be satisfied that it is necessary for the preservation of the peace to take a bond from such person, with or with-

of Magistrate to enter into a bond.

out security, he shall make an order accordingly; and if the person shall fail to comply with the order, it shall be lawful for the Magistrate or other Officer as aforesaid to to commit him to jail.

Limit for confinement.

289. The period for which the Magistrate or other Officer as aforesaid may bind a person to keep the peace, with or without security, shall not exceed one year. When a person shall be committed to jail under the last preceding Section, he shall not be detained by authority of the Magistrate or other Officer as aforesaid beyond the term of one year, and shall be released whenever he shall comply with the order within that term.

Extension of period of confinement.

290. Whenever it shall appear to the Magistrate or other Officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Session, and such Court, after examining the proceedings of the Magistrate or other Officer as aforesaid, and making such further enquiry as such Court may think necessary, may, if it shall see cause, authorize the Magistrate or other Officer as aforesaid to extend the term for a further period not exceeding one year, and if the party shall fail to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other Officer as aforesaid shall direct under the orders of the Court of Session, he may be kept in confinement for such further period, or until he shall give such bond within that period.

Discharge of the recognizances.

291. The Magistrate or other Officer as aforesaid may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace taken under the preceding Sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

292. A surety for the personal appearance of another person may at any time apply to the Magistrate or other Officer as aforesaid, to be relieved from his engagement as surety. On such application being made, the Magistrate shall issue his summons or warrant, in order that the person for whom such surety is bound, may appear or be brought before him. On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

Enforcement of penalty against the principal party.

293. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any recognizance or other bond taken under this Chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by the bond to pay the penalty thereof, or to show cause why it should not be paid; and if sufficient cause be not shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby

which shall be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment, by order of the Magistrate or other Officer as aforesaid, in the Civil Jail for a period not exceeding six months.

Recovery of the penalty from a surety.

294. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other Officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid; and if no sufficent cause be shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XIX.

SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

295. Whenever it shall appear to the Magistrate of the District, or to an Officer exercising the powers of a Magistrate, that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding six months.

When Magistrate may require security for good behaviour for one year.

* 296. Whenever it shall appear to such Magistrate or other Officer as aforesaid, from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of notoriously bad livelihood, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding one year.

How to proceed in cases beyond one year.

297. Whenever it shall appear to such Magistrate or other Officer as aforesaid, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year hazardous to the community, the Magistrate or other Officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period not exceeding three years, for which the sureties should be responsible for such person's good behaviour.

Case to be laid before the Court of Session.

298. If the person required to furnish security, as provided in the last preceding Section, shall not furnish the security so required, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session,

* A portion of a sentence directing the prisoner to be brought up, that he may give security for good conduct under this Section, was reversed as unauthorized by it.—Reg. *v.* Krishnaji Bassuji, 3, B. R., C. C., p. 40.

which, after examining them and requiring any further information or evidence which it may judge necessary, shall be competent to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or other Officer as aforesaid, as it may judge proper.

Court of Session may require security.

299. If the Court of Session shall not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

What the order for security is to contain.

300. In every instance in which security for good behaviour shall be required by the Court of Session or the Magistrate or other Officer as aforesaid, the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order. The security-bond shall be in the form (F) given in the Appendix, or to the like effect.

In default of security, party to be committed to jail.

301. In the event of any person required to give security under the provisions of the foregoing Sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same:* Provided that no party shall be kept in prison for a longer period than that for which the security has been required from him.

Proviso.

When Magistrate may release persons confined under requisition of security.

302. The Magistrate of the District, or other Officer exercising the powers of a Magistrate, is empowered, at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any Officer subordinate to him, provided he shall be of opinion that such person can be released without hazard to the community.

When he must report.

303. In any case in which a Magistrate or other Officer as aforesaid shall be of opinion that any person confined under requisition of security for good behaviour by order of a Court of Session, can be safely released without such security, the Magistrate or other Officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

Discharge of surety.

304. A surety for the good behaviour of a person may at any time apply to the Magistrate or other Officer as aforesaid, to be relieved from his engagement as surety. On such application being made, the Magistrate or other Officer as aforesaid shall issue his summons or warrant in order that the person may appear or be brought before him. On the appearance of the party pursuant to the warrant, or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person to give fresh security, and in default thereof shall commit him to custody.

* For penalty for escaping or attempting to escape from imprisonment under this Section, see Act IV., 1867, Section 3.

Proceeding to compel payment of penalty by sureties.

305. Whenever the Magistrate or other Officer as aforesaid shall be of opinion, that, by reason of an offence proved to have been committed by the person for whose good behaviour security has been given subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid; and if no sufficient cause be shown, the Magistrate or other Officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to such surety which may be found within the jurisdiction of the Magistrate of the District; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety shall be liable to imprisonment, by order of the Magistrate or other Officer as aforesaid, in the Civil Jail, for a period not exceeding six months.

Issue of summons and warrant of arrest.

306. The several provisions of the last preceding Chapter relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this Chapter against persons required to give security for their good behaviour.

Mode of taking evidence under Chapter XVIII. or this Chapter.

307. Any evidence taken under Chapter XVIII. or this Chapter, shall be taken in the manner prescribed by Section 267, subject to the provision contained in Section 268 of this Act.

CHAPTER XX.

Of Local Nuisances.

* 308. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 308 *of that Act substituted for it.*

Service or notification of order.

309. Such order shall, if practicable, be served personally on the person to whom it is issued; but if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

310—314. *Repealed by Section* 4, *Act VIII.*, 1869, *and the corresponding Sections of that Act substituted for them.*

Saving of certain provisions.

315. Nothing in this Chapter shall interfere with the provisions of Section 48 of Act XXIV. of 1869 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George,)* or of Section 34 of Act V. of 1861, *(for the regulation of Police.)*

* A Magistrate who makes an illegal order, purporting to be made under this Section, but not made in accordance with its provisions, is liable to be sued and to be restrained by injunction. L. R. Ashburner *v.* Keshav, 4, B. R., A. C. J., p. 150.

CHAPTER XXI.

Of the Maintenance of Wives and Children.

Magistrate may make order for maintenance of wives and children.

316. If any person having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for the Magistrate of the District, or other Officer exercising the powers of a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding 50 Rupees in the whole, as to the Magistrate or other Officer as aforesaid shall seem reasonable: and if such person shall wilfully neglect to comply with the order, the Magistrate or other Officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order such person to be imprisoned, with or without hard labour, for any term not exceeding one month: Provided that if such person offer to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate or other Officer as aforesaid to consider any grounds of refusal stated by such wife; and he may make the order allowed by this Section notwithstanding such offer, if he shall be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. No wife shall be entitled to receive an allowance from her husband under this Section, if she is living in adultery, or if without any sufficient reason she refuses to live with her husband.

Enforcement of order.

Proviso.

Application for reduction of allowance.

317. Any person ordered to pay a monthly allowance for the maintenance of his wife or child, or both, under the provisions of the last preceding Section, may apply to the Magistrate from time to time for the reduction of such allowance, and on proof of an alteration in the circumstances of such person, his wife, or child, justifying such reduction, such Magistrate may make such reduction in the allowance ordered as he may deem fit.

CHAPTER XXII.

Of Disputes relating to the Possession of Land or the Right of Use of any Land or Water.

Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.

* 318. Whenever the Magistrate of the District, or other Officer exercising the powers of a Magistrate, shall be satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other Officer as aforesaid, and to give in a written statement of their respective claims, as

* Under this Section, a Magistrate is bound to enquire who is in actual possession, without regard to the question who is legally entitled to possession.—Baupuji Jagjioan *v.* Magistrate of Khada, 4, B. R., A. C., J., p. 154.

Party in possession to be continued until ousted by due course of law.

respects the fact of actual possession of the subject of dispute. The Magistrate or other Officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire which party is in possession of the subject of dispute, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to be in such possession, to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

319. If the Magistrate or other Officer as aforesaid shall decide that neither of the parties is in possession, or shall be unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach the subject of dispute until a competent Civil Court shall have determined the rights of the parties or who ought to be in possession.

Disputes concerning right of use of land or water.

320. If a dispute arise concerning the right of use of any land or water, the Magistrate or other Officer as aforesaid within whose jurisdiction the subject of dispute lies, may enquire into the matter, and if it shall appear to him that the subject of dispute is open to the use of the public, or of any person, or of any class of persons, the Magistrate or other Officer may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession: Provided that the Magistrate or other Officer as aforesaid shall not pass any such order if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the enquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Saving of powers of Collectors and Revenue Courts.

321. Nothing in this Chapter shall affect the powers of a Collector, or a person exercising the powers of a Collector, or of a Revenue Court.

CHAPTER XXIII.

OF JURIES AND ASSESSORS.*

322. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 322 *of that Act substituted for it.*

How the Jury is to be constituted for the trial of persons belonging to certain specified races.

323. Criminal trials before the Court of Sessions in which a European (not being a British subject) or an American is the accused person or one of the accused persons, shall be by Jury, and in such case the Jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans, if such a Jury can be procured:

* There is nothing in the Code requiring the Jury to be sworn.—Reg. *v.* Lakshaman Ram Chandro and others, 3, B. R., C. C., p. 56.

Proviso.

Provided that in any District in which the local Government shall not have ordered that all trials or trials for all offences of the class within which the trial about to take place, falls, shall be by Jury, such European or American may elect to be tried without Jury.

Trials before the Session Court with Assessors.

324. In a trial before the Court of Session not by Jury, the trial shall be conducted with the aid of two or more Assessors as members of the Court. The opinion of each Assessor shall be given orally, and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

How the Jury is to be constituted for the trial of other persons.

325. In a trial by Jury before the Court of Session in which a person not belonging to the races specified in Section 323 shall be tried, at least one-half of the Jury, if the accused person desire it, shall consist of persons not belonging to either of such races.

How the Jury is to be constituted when persons of both descriptions are jointly charged.

326. In any case before the Court of Session in which a person not belonging to the races mentioned in Section 323 is charged jointly with a person belonging to one of those races, and such last-mentioned person claims to be tried by a Jury consisting of at least one-half of Europeans or Americans, the person not belonging to either of such races shall, if he desire it, be tried separately.

Number of which the Jury is to consist.

327. In trials by Jury before the Court of Session the Jury shall consist of five persons, or of such number, being an uneven number, and not being less than five or more than nine, as the local Government by any general order applicable to any particular District or to any particular classes of offences in that District, shall direct.

Number of voices necessary to a verdict.

328. If the Jury are unanimous in a verdict of guilty, the accused person shall be convicted. If the Jury shall consist of five persons and a majority of four find the accused person guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person guilty, the accused person shall be convicted. If the Jury are unanimous in a verdict of not guilty, the accused shall be acquitted. If the Jury shall consist of five persons and a majority of four find the accused person not guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person not guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person not guilty, the accused person shall be acquitted, and the Judge shall not receive a verdict of acquittal unless it be unanimous or found by such majority as last aforesaid.

List of Jurors and Assessors.

329. The Collector of the District, or other Officer exercising the powers of a Collector of a District, shall, from time to time, prepare and make out, in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the local Government may think fit to direct, who are in the judgment of the Collector or other Officer as aforesaid qualified from their education and character to serve as Jurors or as Assessors respectively. The list shall contain the name, place of abode, and

quality or business of every such person; and if the person belongs to either of the races specified in Section 323, the list shall mention the race to which he belongs.

Publication of list.

330. Copies of such list shall be stuck up in the Office of the Collector or other Officer as aforesaid, and in the Court-houses of the Magistrate of the District and of the chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside, and every such copy shall have subjoined to it a notice, stating that objections to the list will be heard and determined by the Collector or other Officer as aforesaid at a time and place to be mentioned in the notice.

331. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 331 *of that Act substituted for it.*

Further revision of list.

332. The list so prepared and revised shall be again revised at least once in every year, and the list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors.

333. Except as hereinafter provided, all male persons between the ages of twenty-one and sixty, resident within the limits of the jurisdiction of the Court of Session, shall be deemed capable of serving as Jurors and Assessors, and shall be liable to be summoned accordingly.

Disqualifications.

* 334. The following persons are incapable of serving as Jurors or as Assessors in trials before the Court of Session, namely:—

Persons who hold any Office in or under the said Court.

Persons executing any duties of Police or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the Jury.

Persons who are afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

* 335. The following persons are exempt from the liability to serve as Jurors or as Assessors, namely:—

Judges and other Judicial Officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the Revenue whom the Collector may think fit to exempt on the ground of official duty.

Chaplains and others employed in religious Offices.

All persons in the Military Service.

Surgeons and others who openly and constantly practise in the profession of Physic.

* See Act XXIII., 1867, Section 6.

Persons employed in the Post Office and Electric Telegraph Departments. Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of Section 22 of Act VIII. of 1859 *(for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.)*

The exemption from service given by this Section is a right of which each person exempted may avail himself or not. Nothing herein contained shall be construed to disqualify any such person if he shall be willing to serve as a Juror or as an Assessor.

Court to summon Jurors.

336. The Court of Session shall, ordinarily, three days at the least before the time fixed for the holding of Sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by Jury and trials with the aid of Assessors at the said Sessions, the number to be summoned not being less than double the number required for any case about to be tried at such Sessions. The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

Form and service of summons.

337. Every summons to a Juror or Assessor shall be in writing, and shall require his attendance as a Juror or Assessor at a time and place to be therein specified. The summons, or a copy thereof, shall be served on every Juror or Assessor personally. If the Juror or Assessor summoned be absent from his usual place of adode, the summons may be left for him there with some adult male member of his family residing with him.

Power of Court to summon another set of Jurors or Assessors.

338. The Court of Session may direct Jurors or Assessors to be summoned at other periods than the period specified in Section 336, when the number of trials before the Court renders the attendance of one set of Jurors or Assessors for a whole Session oppressive, or whenever it may be found to be necessary.

Service of summons to serve as Juror or Assessor on an officer of Government.

339. If any person summoned to serve as a Juror or Assessor be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot serve as a Juror or Assessor without inconvenience to the public service.

Court may excuse attendance of a Juror or Assessor.

340. The Court of Session may excuse any Juror or Assessor from attendance for reasonable cause.

List of names of Jurors or Assessors attending at each Session.

341. At each Session the Court shall cause to be made a list of the names of those who serve as Jurors or Assessors at such Session. The list shall be kept with the revised list of the Jurors and Assessors prepared under Section 331. A reference shall be made in the margin of the said re-

vised list to each of the names which are mentioned in the list prepared under this Section.

Jurors to be chosen by lot.

342. Whenever a trial by Jury is to be held, the persons who are to constitute the Jury shall be chosen by lot immediately before the commencement of the trial from the Jurors who attend in obedience to the summons.

Assessors to be selected by Judge.

If the trial is to be held with the aid of Assessors, the Judge shall select from the persons summoned to act as Assessors, two or more persons to assist him in such trial.

Names of Jurors to be called.

343. Before the commencement of a trial by Jury the names of the Jurors shall be called aloud, and upon the appearance of each Juror, the accused person shall be asked if he objects to be tried by such Juror. Any objection may then be made to such Juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated. Any objection made to a Juror shall be decided by the Court, and the decision of the Court shall be final. If an objection be allowed, the place of such Juror shall be supplied by any other Juror in attendance, in obedience to a summons, or if there be no such Juror present, then by any other person present in the Court whose name is on the list of Jurors, or whom the Court shall consider a proper person to serve on the Jury, provided no objection to such Juror or other person be made and allowed.

Objections.

Grounds of objection.

344. Any objection taken to a Juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(1.) Any ground of disqualification within Section 334.

(2.) Standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured, or attempted to be injured, by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused; being in the employment on wages of either of such persons; being plaintiff or defendant against either of such persons in any civil suit, or having complained against, or having been accused by, either of such persons in any criminal prosecution.

(3.) Any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, either of such persons.

Juror to understand the language in which evidence is given or interpreted.

345. The Judge shall not allow any person to serve on the Jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of Jury.

346. The Jury shall appoint one of their number to be Foreman. It shall be the duty of such Foreman to preside in the debates of the Jury, to deliver the verdict of the Jury, or ask any information from the Court that may be required by the Jury. If a majority do not agree in the appointment of a Foreman, he shall be named by the Court.

The same Jury or Assessors may try in succession several offenders.

347. The same Jury, if not objected to, may try, or the same Assessors may aid in the trial of, as many accused persons successively as to the Court shall seem expedient.

View by Jury or Assessors.

348. Whenever in the opinion of the Court it may be proper and convenient that the Jury or Assessors should have a view of the place in which the offence charged is said to have been committed, or of any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the Jury or Assessors shall be conducted in a body under the care of an Officer of the Court to the place which shall be shown to them by a person appointed by the Court, and it shall be the duty of the Officer not to suffer any other person to speak to or hold any communication with any of the Jury or Assessors, and they shall, when the view is finished, be immediately conducted back into Court.

Mode of summoning and empannelling Jurors for a Jury constituted under Section 323.

349. When a trial is held in which the accused person, or one of the accused persons, is entitled to be tried by a Jury constituted under the provisions of Section 323 of this Act, the Court of Session shall, three days at the least before the day fixed for holding such trial, cause to be summoned in the manner prescribed in Section 336 such a number of Jurors of the races mentioned in Section 323 as is equal to the total number of Jurymen required for the trial, if so many of such races be on the Jury List of the District. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for Jury trials at that Session. The names of the persons to be summoned shall be drawn by lot, excluding those who have served within six months, unless the number cannot be made up without them. From the whole number of persons returned, the Jurors who are to constitute the Jury shall be taken by lot in the manner prescribed in Section 342, until a Jury, containing the proper number of the races mentioned in Section 323, or a number approaching as nearly thereto as possible, has been obtained. The Jurors shall be liable to the same objections as any other Jurors. If a Jury containing the requisite number of the races mentioned in Section 323 be not obtained, the accused person may elect to be tried by the Judge with the aid of Assessors; otherwise he shall be tried by the Jury obtained by the means aforesaid.

If, prior to finding, any of the Jury be unable to proceed with the trial.

350. If, in the course of a trial by Jury at any time prior to the finding, any Juror shall, from any sufficient cause, be prevented from attending through the trial, or if any Juror shall absent himself, and it shall not be possible to enforce his attendance, a new Juror shall be added, or the Jury shall be discharged, and a new Jury empannelled, and in either case the trial shall commence anew.

Verdict of guilty by less than the specified majority of Jury.

351. In any trial by Jury if the accused person is found guilty by a majority consisting of a less number of the Jury than is specified in that behalf in Section 328 of this Act, or if the accused person be found not guilty by a majority consisting of a less number of the Jury than is therein in that behalf specified, the Jury shall be discharged, and in any such case as aforesaid there shall be a new trial before a Jury consisting entirely of other Jurors, and the accused person may be remanded or held to bail for such new trial. If, on any new trial by Jury, the

accused person shall not be found guilty by a majority consisting of such a number as aforesaid, he shall be acquitted.

When and how long Jury may retire for finding.

352. At the close of the trial, and after the Judge has summed up the evidence as hereinafter provided by Section 379 of this Act, the Jury may retire to consider their finding, and it shall be the duty of an Officer of the Court not to suffer any person to speak to, or hold any communication with, any member of such Jury. In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the Foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If after such a period as the Judge shall consider reasonable, the Foreman or any one of the Jury shall declare that they are not unanimous, the Jury may deliver their verdict.

If either of the Assessors be unable to proceed with trial.

353. If, in the course of a trial with the aid of Assessors, at any time prior to the finding, any Assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the other Assessor or Assessors. If all the Assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh Assessors.

Penalty for non-attendance of Juror or Assessor.

354. Any person summoned to attend as a Juror or as an Assessor, who shall, without lawful excuse, fail to attend as required by the summons, or having attended shall depart without having obtained the permission of the Court, shall be liable, by order of the Court of Session, to a fine not exceeding 100 Rupees, to be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such Juror or Assessor within the jurisdiction of the Court making the order, or in default of recovery of the fine by such attachment and sale, such Juror or Assessor may be imprisoned in the Civil Jail for the space of fifteen days if the fine be not sooner paid.

CHAPTER XXIV.

OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT SAINT GEORGE.

Criminal Jurisdiction and powers of punishment of Subordinate Judges and Principal Sudder Ameens.

355. The Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort St. George shall continue to exercise under this Act, subject to the provisions of the Indian Penal Code, the Criminal jurisdiction which they are competent to exercise under any law for the time being in force, and shall have the same powers of punishment as are given by this Act to an Officer exercising the powers of a Magistrate.

What cases Subordinate Magistrates may commit, and what cases they may refer to Magistrate.

356. Subordinate Magistrates of the first and second class in the Presidency of Fort St. George shall commit to the Court of Session any persons charged with offences triable exclusively by that Court, or shall, under such orders as the Sudder Court shall from time to time issue, either commit to the Subordinate Judges or Principal Sudder Ameens the cases of persons accused of offences

triable by such Subordinate Judges or Principal Sudder Ameens, or refer such cases for the orders of the Magistrate of the District, or other Officer exercising the powers of a Magistrate. If the case be referred to the Magistrate of the District or other Officer as aforesaid, such Magistrate or other Officer shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

Subordinate Magistrate after trial may refer to Magistrate of the District.

357. If in any case tried by a Subordinate Magistrate of the first or second class in the Presidency of Fort St. George in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than such Magistrate is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate of the District, or other Officer exercising the powers of a Magistrate, and the Magistrate of the District or other Officer as aforesaid shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any such case, the Magistrate or other Officer to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Cases committed for trial before Subordinate Judges and Principal Sudder Ameens.

358. In cases committed for trial before the Subordinate Judges or Principal Sudder Ameens in the Presidency of Fort St. George, they shall be guided by the rules contained in this Act for the trial of cases before the Magistrate, which are hereby made applicable to such cases. The Subordinate Judges and Principal Sudder Ameens may commit any case to the Court of Session in which the evidence is such as to warrant a presumption that the accused person has been guilty of an offence calling for a more severe punishment than such Subordinate Judges or Principal Sudder Ameens are authorized to adjudge.

CHAPTER XXV.

TRIALS BEFORE THE COURT OF SESSION.

Cognizance of offences by the Court of Session in original jurisdiction.

359. Except in the case referred to in Section 172 of this Act, a Court of Session, as a Court of original criminal jurisdiction, shall not take congnizance of any offence but upon a charge preferred by a Magistrate or other Officer specially empowered under this Act or under any other law to make commitments to such Court.

Every trial before Court of Session to be conducted by Government Pleader, &c.

360. In every trial before a Court of Session, the prosecution shall be conducted by the Govenment Pleader or by some other Officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

Postponement of trial

361. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of justice.

Commencement of trial.

362. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims

to be tried. If the accused person plead guilty, the plea shall be recorded, and the accused may be convicted thereon.

363. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 363 *of that Act substituted for it.*

Provisions relating to examination of parties, &c., in trials before Magistrate, to be applicable to trials before Court of Session.

* 364. The provisions of Sections 195, 196, 197, 198, 199, and 200, of this Act, relating to the examination of parties and witnesses, the mode of recording evidence, and the correction, attestation, and interpretation thereof in trials before the Magistrate, shall be applicable to trials before the Court of Session under this Chapter.

Witness refusing to answer may be committed to custody.

365. If any witness shall refuse to answer any question which shall be put to him, and shall not offer any just excuse for such refusal, the Court may commit such witness to custody for such reasonable time as it may deem proper, unless he shall in the meantime consent to be examined and to answer. In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of accused before the Magistrate to be evidence at the trial.

† 366. The examination of the accused person before the Magistrate shall be given in evidence at the trial. The attestation of the Magistrate shall be sufficient *primâ facie* proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court shall see reason to doubt its genuineness.

Court may summon necessary evidence.

367. It shall be in the discretion of the Court, at any stage of a trial, to summon and examine any witness whose evidence it shall consider essential to the just decision of the case. The Court may also examine as a witness any person in attendance, although not summoned as a witness.

Evidence of medical witness.

368. The Court shall receive as *primâ facie* evidence the examination of a Civil Surgeon or other medical witness taken and duly attested by the Magistrate: Provided that it shall be competent to the Court to summon such Civil Surgeon or other medical witness, if it shall see sufficient cause for doing so.

Examination of witness taken and attested by Magistrate when admissible.

369. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence if the witness be dead or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

Report of Chemical Examiner admissible in evidence.

370. Any document purporting to be a report from the Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in any preliminary enquiry relating thereto, shall be received in evidence at a trial by the Court of Session, if it bear the signature of such Examiner, and no proof of such signature, or that the person signing holds such office, shall be requisite unless the Court shall see reason to doubt the genuineness of the document.

* Suspended as to the High Court of the North-Western Provinces by Section 2, Act XIII. of 1869.

† See note to Section 205.

371—374. *Repealed by Section* 4, *Act VIII.*, 1869, *and the corresponding Sections of that Act substituted for them.*

Witness for the defence.

375. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any other witness summoned than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in Section 246 of this Act.

Prosecutor's right of reply.

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or Agent for the prosecution, shall be entitled to a reply.

Adjournment.

377. The Court may in its discretion, from time to time, adjourn the trial as may be necessary.

Jury or Assessors to attend at adjourned sitting.

378. In the event of the adjournment of a trial by Jury or with the aid of Assessors, the Jury or Assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial; and any Juror or Assessor who shall, without lawful excuse, fail so to attend, shall be liable to the penalty prescribed in Section 354 of this Act, and such penalty shall be enforced in the manner therein prescribed.

Of verdict of Jury.

379. In a trial by Jury, the Judge shall sum up the evidence on both sides, and the Jury shall then deliver their finding upon the charge. A statement of the Judge's direction to the Jury shall form part of the record. In trials not by Jury, the ground of the Judge's decision shall be recorded.*

Acquittal or conviction.

†380. If the accused person is acquitted, the Court shall record a judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law:‡ Provided that if the Court pass sentence of death, the sentence shall not be executed without the confirmation of the Sudder Court. If the accused person shall be convicted of an offence which by the Indian Penal Code is punishable with death, and the Court shall sentence such person to any punishment other than death, the Court shall state the grounds upon which it remitted the punishment of death in the statement of trials to be periodically submitted to the Sudder Court, as hereinafter required, under the head of "Sentences pssed upon the accused persons."§

CHAPTER XXVI.‖

FINDING, JUDGMENT, AND SENTENCE.

381. When the trial in any Criminal Court is concluded, the

* After this Section read Section 379A, of Act VIII., 1869.

† By Act IV., 1866, Section 33, portions of this Section do not apply to sentences passed by the Chief Court of the Punjab

‡ By Act XXIV., 1866, Section 14, the two last clauses of this Section are declared not to apply to sentences passed by the High Court of the North-Western Provinces in the exercise of its original criminal jurisdiction.

§ After this Section, read Section 380A of Act VIII., 1869.

‖ So much of this Chapter as requires a judgment to be passed, or a sentence or finding to be recorded in any particular form, is not to apply to the High Court of the North-Western Provinces, or to the Chief Court of the Punjab in its original jurisdiction. See Act XXIV., 1866, Section 15, and Act IV., 1866, Section 34.

What the judgment is to specify.

Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the Indian Penal Code under which he is convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

Form of finding and sentence.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect :—

In trials by Jury—

When the Jury are unanimous :

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

2nd.—The Jury are unanimous in finding that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty :

3rd.—A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [*sentence.*]

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty :

4th.—A majority of the Jury (stating the number, as above) find that Z is not guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act, concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls :

5th.—The Jury, or a majority of the Jury (stating the number, as above) find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft, and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust, and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence.*]

When a majority less than the number required by Section 328 of this Act find the accused guilty:

6th.—A majority of the Jury (stating the number, as above) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c., the Court directs that the Jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act, find the accused guilty:

7th.—A majority of the Jury (stating the number, as above) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c. &c. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors:

9th.—The Court, concurring with the Assessors (or one or more of the Assessors), finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting, and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

10th.—The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting, and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

11th.—The Court, concurring with one of the Assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified in the second head of charge, namely, that Z has either committed theft, and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust, and has thereby committed an offence punishable under Section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence.*]

In trials upon a formal charge, without Jury or the aid of Assessors:

12th.—The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft, and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

13th.—The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft, and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:

14th.—The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [*sentence.*]

15th.—The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

383—385. *Repealed by Section* 4, *Act VIII.*, 1869, *and the corresponding Sections of that Act substituted for them.*

386. *Repealed by Section* 2, *Act VIII.*, 1869.

Transmission of periodical calendars of trials by Court of Session.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

CHAPTER XXVII.

OF LUNATICS.

Procedure in case of accused person being lunatic.

*388. When any person who is charged with an offence shall appear to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District or some other Medical Officer, and thereupon shall examine such Civil Surgeon or other Medical Officer, and shall reduce the examination into writing; and if the Magistrate shall be of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

Procedure in case of person committed before a Court of Session being lunatic.

389. If any person who shall be committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

Release of lunatic pending investigation on trial.

390. In any case in which an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the local Government to which the case shall be reported shall direct.

Resumption of investigation of case.

391. Whenever any investigation or trial of a case shall be postponed under Section 388 or Section 389 of this Act, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court, or if the accused person has been released on security, may require his appearance. Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court. The surety of such person shall be bound at any time to produce him to any Officer whom the Magistrate or Court of Session may appoint to inspect him, and the certificate of such Officer shall have the same effect as the certi-

* See Reg. *v.* Heera Poonja, B. R. I., p. 33.

ficate of an Inspector of Jails or the Visitors of Lunatic Asylums granted under Section 395 of this Act.

Procedure on accused appearing or being brought before Magistrate or Court of Session.

392. If when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it shall appear to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial as the case may require. If it shall appear that the accused person is still of unsound mind and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 388 or Section 389 of this Act.

Procedure in case of acquittal of accused person on the ground of being lunatic.

393. Whenever any person is acquitted, upon the ground that at the time at which he is charged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

Person so acquitted to be disposed of by Magistrate or Court of Session for safe custody, &c.

394. Whenever such finding sahll state that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manher as to the Magistrate or Court of Session shall seem fit, and shall report the case for the order of the local Government. The local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

395. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 395 *of that Act substituted for it.*

Person under sentence of imprisonment appearing to be of unsound mind may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c.

396. Whenever it shall appear to the local Government that any person, imprisoned by the sentence of any Court or Magistrate, is of unsound mind, the local Government, by an order which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, there to be kept and treated as the local Government, shall direct during the remainder of the term of imprisonment ordered by the sentence, or if it shall be certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law; and when it shall appear to the local Government that such person has become of sound mind, the local Government, by an order directed to the person having charge of him, shall remand such person to the custody from which he was removed, if then still liable to be kept in custody, or, if not, shall order him to be discharged out of custody. The provisions of Section 9 of Act XXXVI. of 1858 *(relating to Lunatic Asylums)* shall apply to persons confined in a Lunatic Asylum under this Section after the expiration of the imprisonment ordered by the sentence. The period during which a person shall be confined in a Lunatic Asylum shall be reckoned as part of the period of imprisonment ordered by the sentence.

When lunatic may be delivered over to the care and custody of a relative or friend.

397. Whenever any relative or friend of any person detained under the provisions of Section 394 of this Act, is desirous that such person shall be delivered over to his care and custody, the local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, may make an order that the person so detained may be delivered to such relative or friend. Whenever such person shall be so delivered over, it shall be upon condition that he shall be subject to the inspection of such Officer as the local Government shall think necessary to appoint, and at such times as such Government shall direct. The provisions of Section 395 shall apply to persons detained under the provisions of this Section, and the certificate of the Inspecting Officer appointed under this Section shall have the same effect as a certificate of an Inspector of Jails or the Visitors of Lunatic Asylums under the said Section.

CHAPTER XXVIII.

SUDDER COURT AS A COURT OF REFERENCE.

Constitution of Court for hearing case referred for confirmation of sentence.

* 398. A case referred to a Sudder Court by a Court of Session for confirmation of sentence of death shall be heard by a Court constituted by two or more Judges of such Sudder Court.

Power of Sudder Court to confirm, reverse, &c., sentence.

399. In any case so referred, the Sudder Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge. If the case shall have been tried by the Court of Session with the aid of Assessors, it shall further be competent to the Sudder Court to acquit the accused person and order his discharge.

Competence of Sudder Court to direct further enquiry, &c.

400. If the case so referred shall have been tried by the Court of Session with the aid of Assessors, it shall be competent to the Sudder Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, to direct such enquiry to be made, or such additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Sudder Court, and the Sudder Court shall thereupon proceed to pass judgment of acquittal or such sentence as to the Court shall seem right.

Confirmation of new sentence must be signed by two Judges.

* 401. In every case so referred to the Sudder Court, the confirmation of the sentence or any new sentence or order passed by the Sudder Court shall be signed by at least two Judges of the Court.

* See Act XV., 1862, Section 2, with regard to extensions of this Act to any Non-Regulation Provinces.

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

Revision in cases of illegal sentence.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision of trials.

403. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case have been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

General power of revision by the Sudder Court.

404. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding* of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

Sudder Court empowered to call for and examine record of Court of Session.

405. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order, and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

406. *Repealed by Section* 4, *Act VIII.*, 1869, *and section* 406 *of that Act substituted for it.*

* An order made by a Magistrate under Section 308, is not a judicial proceeding within this Section,—L. R. Ashburner *v.* Keshav, 4, B., R. A. C. J., p. 150: but, proceedings under Section 318 are.—Bapuji Jagjivan *v.* Magistrate of Kheda, 4, B. R. A. C. J., p. 153.

CHAPTER XXX.

APPEALS.

No appeal in cases of acquittal.

407. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

* 408. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

409. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 409 *of that Act substituted for it.*

Appeals from Justices of the Peace.

410. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under the Statute 53 George III., c. 155, s. 105, or under Act VII. of 1853 *(to extend the jurisdiction of Magistrates under the* 53rd *George III., c.* 155, *s.* 105, *in cases of assault, forcible entries, and other injuries accompanied with force, not being felonies)*, or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari:* Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

No appeal in certain Criminal cases.

† 411. In all cases in which a Court of Session or the Magistrate of a District, or other Officer exercising the powers of a Magistrate, shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding fifty Rupees, no appeal shall be allowed.

Appeals from Officer exercising powers less than those of a Magistrate.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District, or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.‡

413. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 413 *of that Act substituted for it.*

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

414. Unless otherwise provided by this Act, or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

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* As to the effect of the detachment of a particular district from one Presidency to another upon the right of appeal conferred by this Section. See Reg. *v.* Vyan katasvami, 2, B. R., p. 112.

† An appeal does not lie under this Section in all cases in which a combined sentence of fine and imprisonment is passed, but only where imprisonment might in the aggregate amount to more than a month.—Reg. *v.* Shankar Vankaji, 3, B. R., C. C., p.. 5.

‡ This power may be conferred once for all by proclamation, and need not be special in every case.—Reg. *v.* Bhaishankat Hariram, 3, B. R., C. C., p. 19.

415. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 415 *of that Act substituted for it.*

Copy of judgment to accompany petition.

416. Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Appellate Court may reject petition of appeal.

417. It shall be competent to the Appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

Appeal by party in Jail.

418. If the party appealing be in Jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other Officer in charge of the Jail, who shall thereupon forward the petition to the proper appellate authority.

Appellate Court may call for the proceedings of lower Court.

419. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the plaintiff or his counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

420. *Repealed by Section* 2, *Act VIII.*, 1869.

421. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 421 *of that Act substituted for it.*

422. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 422 *of that Act substituted for it.*

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, or of criminal breach of trust as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, or the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the said Code.

Finding of theft not reversible on the ground of the offence proved being dishonest misappropriation.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building, tent, or vessel under the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property

under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the offence of such dishonest misappropriation under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the offence of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of power of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case, within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

* 426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the the accused person shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect; and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Appellate Court may reduce punishment.

427. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 427 *of that Act substituted for it.*

Finality of orders on appeal.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

CHAPTER XXXI.

General Rules.

In what language sentence to be written.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular language of the presiding Officer, and shall be dated and signed by such Officer at the time of his making or passing the same, and the original shall be filed with the record or proceedings, and a translation thereof, where the original is recorded in a different language from that

* It is not necessary to interfere with a sentence passed under Section 417, but which should have been passed under Section 177 of the Penal Code, the punishment awarded being legal under the latter.—Reg. *v.* Bagnoji, 3, B. R., C. C., p. 42.

in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

When it may be written in English.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

Employment of interpreter.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and such interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

432. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 432 *of that Act substituted for it.*

Confinement of youthful offenders in reformatories.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of being imprisoned in the Criminal Jail, shall be confined in any reformatory which may be recognised by the local Government as a fit place for confinement, in which there may be means of suitable discipline and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts.

* 434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any subordinate Court, except upon appeal by parties concerned duly made according to the provisions of Chapter XXX. of this Act.

435. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 435 *of that Act substituted for it.*

Power of Court of Session to direct bail.

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

* A Magistrate has no power to reverse or alter his own sentence when it has been finally recorded.—Reg. *v.* Tookia, B. R., Vol. I., p. 3. A Magistrate ought at once to comply with the precept of the Sessions Judge under this Section, though he may doubt the Judge's authority to interfere.—Reg. *v.* Dalsukram Haribhai, 2, B. R., p. 407.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government Promissory notes to such amount as such Court may fix in lieu of such bail.

Deposit may be made instead of bail.

438. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 438 *of that Act substituted for it.*

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

No trial, &c., to be set aside for irregularity of procedure.

440. *Repealed by Section* 4, *Act VIII.*, 1869, *and Section* 440 *of that Act substituted for it.*

441. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Chief Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras, and Bombay, and the settlements of Prince of Wales' Island, Singapore, and Malacca, except so far as this Act expressly provides for the same.

Act not to take effect in Presidency Towns or Straits' Settlements.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort St. George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly authorized and appointed under the laws in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of petty offences in Military Bazars at Cantonments and stations occupied by the Troops of those Presidencies respectively.

Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries, and accounts to be kept in such Courts, and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form, provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Court under this Section shall be published in the *Official Gazette.*

Sudder Court to make general rules for regulating proceedings, &c.

444. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which, after the passing of this Act, shall be instituted in any Court.

Procedure of this Act to be followed in miscellaneous criminal cases and proceedings.

*445. This Act shall not take effect in any part of the territories

* See Act XV., 1862, Section 1, for the restrictions subject to which this Act may be extended to a Non-Regulation Province.

Act not to take effect in any Non-Regulation Province till expressly extended to it.

in British India not subject to the General Regulations of Bengal, Madras, or Bombay, *until the same shall be extended thereto by the Governor-General of India in Council or by the local Government to which such territory is subordinate, and until such extension shall have been notified in the Gazette.**

APPENDIX OF FORMS.

A.

FORM OF SUMMONS *(Section 69.)*

To——A. B. of——

Whereas your attendance is necessary to answer to a charge of *(state shortly the offence charged): you are hereby required to appear* in person or by authorized Agent, as the case may be, before the [Magistrate] of——on the——day of——Herein fail not.

(Signature and Seal.)

Dated the——day of——

B.

FORM OF WARRANT *(Section 76.)*

——To—— *(name and designation of the person or persons who are to execute the warrant).*

Whereas——of——stands charged with the offence of *(state the offence.)* You are hereby directed to apprehend the said——and to produce him before me. ——Herein fail not.

(Signature and Seal.)

This warrant may be endorsed as follows :—

If the said——shall give bail, himself in the sum of——with one surety in the sum of——(or two sureties each in the sum of——) to appear before me on the——day of——he may be released.

Dated——

Signature.

C.

FORM OF WARRANT OF COMMITMENT (*Section* 222.)

To——Jailor of

Whereas——of——is charged with *(state the offence in respect of which the prisoner is charged; and the authority of the Committing Officer:* You are hereby required to receive the said——into your custody in the said Jail of ——and him there safely to keep until he shall be thence delivered by due course of law.

Dated the——day

D.

FORM OF BOND TO THE PEACE (*Section* 284.)

Whereas I——inhabitant of——have been called upon to enter into a bond to keep the peace for the term of——, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of——Rupees.

Dated——

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said——that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of——Rupees.

Dated——

* Here read Sections 445 A, B, C, and D of Act VIII. of 1869.

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*Sections* 158 and 232.)

I————of————do hereby bind myself to appear at———— in the Court of————at————o'clock on the————day of———— next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or to give evidence) in the matter of a charge of————against one A. B.; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of————Rupees.

F.

FORM OF BOND FOR GOOD BEHAVIOUR (*Section* 300.)

Whereas I————inhabitant of————have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of————, I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of———— Rupees.

Dated————

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said————that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of————Rupees.

* SCHEDULE.—(*Referred to in Section* 22 *and elsewhere in this Act.*)

ACT No. XXVII. OF 1861.

Andaman Islands.

1. Land vested absolutely in Government.
2. Appointment of Officers to superintend management of land, &c.
3. Administration of Civil and Criminal justice.
4. Appeal.
5. Revision and confirmation of sentences.
6. Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.
7. Penalty for landing at unauthorized Port.
8. Exception for provisions of last two Sections.
9. Master of vessel to deliver to Conservator list of crew, &c. Penalty.
10. Penalty for any person for landing without license.
11. Penalty for landing goods without license.
12. Penalty for Master omitting to furnish the Conservator with a list of his crew, &c., before the departure of his vessel.
13. Inspection of vessels. Penalty.
14. Penalty for receiving on board a convict for the purpose of escape.
15. License for residing at the Settlement.
16. Conditions of license to be determined by Governor-General in Council.
17. Imposition and recovery of forfeitures.

An Act to regulate the administration of Port Blair and other Settlements in the Andaman Islands.

Whereas the Settlement of Port Blair, including the territory thereto attached, within the Andaman Group of Islands, is occupied as a Penal Settlement for convicts sentenced by the Courts of British India to transportation, and it is expedient to provide for the admission and residence of other persons than convicts within the said Settlement; and whereas it is expedient to provide in like manner for any other Settlement that may be formed in the said Island, as well as for the occupation of land and the general administration of such Settlement: It is enacted as follows:

* This Schedule is repealed by Section 2, Act VIII., 1869, and the Schedule annexed to that Act is to be read in lieu of it.

Land vested absolutely in Government.

I. The land of the Settlement of Port Blair, and of any other Settlement that may hereafter be formed by the Government of India in the Andaman Group of Islands, is vested absolutely in Her Majesty the Queen, and such land shall not be sold, leased, or otherwise transferred to or be acquired by any person except by and through an instrument in writing executed by the Superintendent of the Settlement or such other authority as the Governor-General of India in Council may appoint, and it shall be competent to such Superintendent or other authority to eject any person from any land occupied or in any way possessed by such person which he shall not have acquired in the manner prescribed in this Section.

Appointment of Officers to superintend management of land, &c.

II. The Governor-General of India in Council may appoint one or more Officers to superintend the management of the land of the Settlement of Port Blair and of any other Settlement as aforesaid, and the realization of any Revenue, rent, or other dues that may be payable on account of such land, and any officer so appointed shall, in the matters aforesaid, be subject to the direction and control of the Governor-General of India in Council and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Administration of Civil and Criminal justice.

III. The administration of Civil and Criminal Justice within the Settlement of Port Blair and of any other Settlement as aforesaid shall be vested in such Officer or Officers as the Governor-General of India in Council may for the purpose of tribunals of first instance or of reference and appeal appoint, and the Officer or Officers so appointed shall in matters aforesaid be subject to the direction and control of the Governor-General of India in Council, and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Appeal.

IV. It shall be lawful for the Governor-General of India in Council to declare in what cases the order, judgment, or sentence made by any Officer appointed as provided in the last preceding Section shall be final, and to direct that from any such order, judgment, or sentence an appeal may be heard and decided by any Court established within British India and beyond the limits of the Settlement of Port Blair.

Revision and confirmation of sentences.

V. It shall be lawful to the Governor-General of India in Council to empower any Court, established within British India and beyond the limits of the said Andaman Group of Islands, to confirm and modify or reverse any order or sentence passed in any Criminal trial by any Officer within such Settlement, and no sentence of death passed by any Officer within any Settlement in the said Group of Islands shall be carried into execution until it be confirmed by the Governor-General of India in Council, or by such Court established within British India as aforesaid, as the Governor-General of India in Council may for that purpose appoint.

Penalty for Master anchoring his vessel

VI. It shall not be lawful for the Master or Commander of any vessel to land or to anchor such vessel for the purpose of landing any person or any goods or things at

for the purpose of landing of passengers or goods at unauthorized Port.

any place on the Coast of the Settlement of Port Blair or any other Settlement as aforesaid, except at such place as may be declared a Port under the provisions of Act XXII. of 1855 (*for the regulation of Ports and Port-dues*); and any Master or Commander so offending shall forfeit and pay a sum not exceeding 1,000 Rupees.

Penalty for landing at unauthorized Port.

VII. Any person who shall land from any vessel or boat at any place on the Coast of the Settlement of Port Blair or of any other Settlement as aforesaid, except at such place as shall be within the limits of any Port declared under the provisions of the said Act XXII. of 1855, shall forfeit and pay a sum not exceeding 500 Rupees, and any goods or thing landed from any vessel or boat, except within such limits, shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other Officer aforesaid shall so direct.

Exception for provisions of last two Sections.

VIII. The provisions of the last two preceding Sections shall not apply to any vessel or boat the property of Her Majesty or used for any public purpose, or to any person, goods, or thing landed from such vessel or boat, nor in any other case when the Sections aforesaid shall have been infringed from stress of weather or other unavoidable circumstances.

Master of vessel to deliver to Conservator list of crew, &c.

IX. The Master or Commander of any vessel, which shall enter any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound to deliver to the Conservator of the Port, within twenty-four hours from the time of entering, a list of the crew and passengers on board of such vessel as well as a Manifest of the Cargo carried by such vessel; and any Master or Commander failing to deliver such list and Manifest within such period, shall forfeit and pay a sum not exceeding 500 Rupees.

Penalty.

Penalty for any person landing without license.

X. No person shall land within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under a license granted as hereinafter provided or under the written permission of the Conservator of the Port or of the Superintendent of the Settlement or other authority appointed as provided in Section 1 of this Act, and any person so landing without such license or permission shall forfeit and pay a sum not exceeding 500 Rupees.

Penalty for landing goods without license.

XI. No goods or other thing shall be landed within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under the written permission of the Conservator of the Port or other Officer appointed on that behalf; and any goods or thing landed without such permission shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other authority aforesaid shall so direct.

Penalty for Master omitting to furnish the Conservator with a list of his crew, &c., before the departure of his vessel.

XII. Every Master or Commander of a vessel shall, twenty-four hours at least before the departure of such vessel from any Port of the Settlement of Port Blair, or of any other Settlement as aforesaid, furnish to the Conservator of such Port a list of the crew and other persons who are about to sail in such vessel, specially

designating any person (if any) who shall not have arrived at the Settlement in such vessel; and every Master or Commander who shall fail to furnish such list shall forfeit and pay a sum not exceeding 1,000 Rupees. If any such Master or Commander shall, after furnishing the list herein mentioned, take or receive on board his vessel any person not mentioned or included in such list, for the purpose of taking him from such Port, without forthwith informing the Conservator of such Port of the name of such person, he shall be liable to forfeit and pay a sum of 500 Rupees for every such person so taken or received on board.

Inspection of vessels.

XIII. Every Master or Commander of any vessel anchored in, or about to depart from, any Port of the Settlement of Port Blair or of any other Settlement as aforesaid shall be bound, on the requisition of the Conservator of the Port or other person acting under the instructions of the Superintendent of the Port or other Officer as aforesaid, to permit such Conservator or other person to inspect such vessel, and to produce before such Conservator or other person any person who may be on board of such vessel. If any Master or Commander shall fail to conform to any of the provisions of this Section, he shall forfeit and pay a sum not exceeding 1,000 Rupees.

Penalty for receiving on board a convict for the purpose of escape.

XIV. If the Master or Commander of any vessel or other person shall wilfully receive on board such vessel or on any boat any convict undergoing a sentence of transportation, for the purpose of conveying the same from the Settlement of Port Blair or any other Settlement as aforesaid, without the knowledge or authority of the Superintendent or other Officer aforesaid, such Master or Commander or other person shall forfeit and pay a sum not exceeding 1,000 Rupees, besides being liable to any punishment that may be awarded on conviction of any offence committed by him under the provisions of the Indian Penal Code.

License for residing at the Settlement.

XV. No person shall reside at the Settlement of Port Blair or any other Settlement as aforesaid beyond the period of one month, or after the departure of the vessel by which he was conveyed to such Settlement; except he shall hold a license granted by some person empowered in that behalf by the Governor-General of India in Council; and any person who shall so reside without such license shall forfeit and pay a sum not exceeding 500 Rupees. Such person may be required to remove himself from the Settlement in which he shall be within such time as the Superintendent or other Officer appointed as provided in Section 1 of this Act shall direct, and if he shall fail so to do he shall forfeit and pay a sum not exceeding 500 Rupees, and may further be shipped and removed from the Settlement by any vessel that the Superintendent or other Officer aforesaid shall appoint for that purpose.

Conditions of license to be determined by Governor-General in Council.

XVI. The Governor-General of India in Council may determine the conditions upon which a license to reside in the Settlement of Port Blair or any other Settlement as aforesaid shall be granted. The conditions so determined shall be inserted in the license; and if the holder of any such license shall fail to conform to, or shall infringe, any of the conditions therein specified, he shall forfeit and pay any sum specified therein as a forfeiture payable for any neglect or infringement of such conditions. Such person may also be required to remove himself from the Settlement in which he shall be,

and his bailiffs so to do may be enforced as provided in the last preceding Section.

Imposition and recovery of forfeitures.

XVII. The forfeitures incurred under this Act may be imposed by any Officer exercising the authority of a Magistrate within the Settlement of Port Blair, and the payment of the sum may be enforced by distress and sale of the goods and chattels of the offender, or in the case of the Master or Commander of a vessel, by the distress and sale of such vessel and the tackle, apparel, and furniture thereof: and in default of the recovery of any sum forfeited and payable under this Act, the offender may be imprisoned in the Civil Jail for a period of one month if such sum be not sooner paid.

ACT No. XXXI. OF 1861.

1. Unlicensed manufacturing, &c., of Saltpetre prohibited.
2. Unlicensed manufacturer prohibited from separating, &c., Salt educed in the manufacture of Saltpetre.
3. Duration and form of license.
4. Fees for licenses.
5. Salt educed in the manufacture of Saltpetre liable to full Government Duty.
6. Penalty.
7. Composition of Duties.
8. Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV. of 1848 and XXXVI. of 1855 applicable.
9. In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors, &c.
10. Local Government may frame rules.
11. To what substances, &c., this Act is applicable.
12. Levy of forfeitures and penalties by distress.
13. Cancellation of license and destruction of works of offenders.
14. Procedure until return is made to warrant of distress.
15. Imprisonment if distress not sufficient.
16. Levy of fines from European British Subjects.
17. Act not to affect provisions of other laws relating to licenses.
18. Commencement and operation of Act.

An Act to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof.

Whereas it is expedient to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof; It is enacted as follows:

Unlicensed manufacturing, &c., of Saltpetre prohibited.

I. From the time when this Act shall come into operation it shall not be lawful for any person in the North-Western Provinces of the Presidency of Bengal, or in any other part of the territories in India to which this Act shall be extended in the manner hereinafter provided, to manufacture or refine Saltpetre, or to separate or purify any Salt which may be educed in the process of manufacturing or refining Saltpetre, except under a license from the local Government. The license may be granted either for the manufacture of Saltpetre alone, or for the manufacture and refining of Saltpetre and the separation and purification of Salt educed in the process of such manufacturing and refining.

Unlicensed manufacturer prohibited from separating, &c., Salt educed in the manufacture of Saltpetre.

II. It shall not be lawful for any manufacturer of Saltpetre, not being licensed to manufacture and refine Saltpetre and to separate and purify the Salt educed in the process of the manufacture of Saltpetre, to separate any Salt from any earth or other substance yielding Salt.

Duration and form of license.

III. Every license granted under this Act shall have effect for one year from the date of such license, and shall contain the name of the proprietor of the manufactory or manufactory and refinery of Saltpetre licensed, and of the locality of such manufactory or refinery.

Fees for licenses.

IV. For every license to manufacture Saltpetre there shall be charged a fee not exceeding 2 Rupees, and for every license to manufacture and refine Saltpetre, and to separate and purify Salt in the process of such manufacture and refining, a fee not exceeding 100 Rupees. The local Government shall within the limits aforesaid fix the amount of the fee to be paid for such licenses respectively.

Salt educed in the manufacture of Saltpetre liable to full Government Duty.

V. The Salt educed in the process of manufacturing or refining Saltpetre by any person licensed to separate and purify Salt as aforesaid (whether the same shall be purified or not) shall be liable to full Government Duty on Salt in the Presidency or place in which such Salt is separated, educed, or purified, and such Duty shall be levied, on or before such Salt is removed from the place of manufacture.

Penalty.

VI. If any person shall manufacture or refine Saltpetre, or separate or purify any Salt educed in the process of manufacturing or refining the same, without a license under this Act, or being licensed only to manufacture Saltpetre, shall separate any Salt in the manufacture thereof, or being licensed to manufacture and refine Saltpetre, shall (except as provided in the next Section) allow any Salt separated in the manufacture or refinement of Saltpetre to be removed from the place of manufacture or refinery without the full amount of Government Duty thereon being first paid, he shall be liable to a fine of 500 *Rupees** and on non-payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

Composition of Duties.

VII. It shall be lawful for the local Government to compound with any person licensed under this Act to manufacture and refine Saltpetre and to separate and purify Salt educed in the process of such manufacturing and refining, for the Duty payable on the Salt estimated to be separated by such person. The composition shall be made for one year only, and may be annually renewed, and shall be in such form, and subject to such provisions and pecuniary penalties, as the local Government shall prescribe. Such provisions and penalty shall be expressed in such license, and the person licensed shall sign a bond embodying such provisions and penalties, and binding him to the fulfilment of all conditions of such license.

Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV. of 1843 and Act XXXVI. of 1855 applicable.

VIII. Every manufactory of Saltpetre in the North-Western Provinces licensed under this Act, and a space not exceeding 100 yards around such manufactory, if the manufactory be also a refinery of Saltpetre, and not exceeding 50 yards if the manufactory be licensed for the manufacture of Saltpetre only, to be fixed by the local Government under Section 3 of Act XIV. of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) shall be included in the Customs jurisdiction of the said Provinces; and the provisions of the said Act XIV. of 1843 and of Act XXXVI. of 1855 (*to empower Officers of Customs and Land*

* By Act No. XXXIII., 1867, the words "fine not exceeding Rupees 500" are to be substituted for the words above printed in *italics*.

venue to search houses and other enclosed place for contraband Salt in North-Western Provinces) shall apply to Salt manufactured, parated, or purified contrary to the provisions of this Act, and to such istoms jurisdiction.

n other parts of lia to which this Act extended, who are exercise the powers ferred by the above ts on Collectors, &c.

IX. In other parts of the British territories in India to which this Act shall be extended in the manner hereinafter provided, the powers conferred by the said Acts XIV. of 1843 and XXXVI. of 1855 on Collectors and other Officers of Customs and Police Officers respectively, may be exercised by the Magistrates and olice Officers (not being under the grade of a Jemadar or Head Officer a Police Station) in their respective Districts.

Local Government y frame rules.

X. It shall be lawful for the local Government of the North-Western Provinces and of any other Presidency or place to which this Act shall be extended as hereinafter provided, to frame rules, which shall not be con-ary to the provisions of this Act, for securing the Duty payable on lt separated or purified under licenses to manufacture and refine ltpetre, and to separate and purify Salt educed in manufacturing and fining the same, for compositions under Section 7 of this Act, and r the removal of Salt for which composition has been made, and otherise to give effect to this Act. Such rules shall be published in the *fficial Gazette* of such local Government, and shall have the same force d effect as if they were contained in this Act.

To what substances, this Act is applie-ble.

XI. The provisions of this Act, wherever it may be in force, shall apply to the manufacture of Russee, Sujjee, and all other substances manufactured from saline earth, and of Kharee Noon, or Glauber's Salt, and every other form of Sulphate of Soda, and to the works at which y such substance is manufactured.

Levy of forfeitures nd Penalties by distress.

XII. All forfeitures or penalties imposed under the authority of this Act shall be recoverable by any Magistrate of Police, or by the Magistrate or other Officer exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers.

Cancellation of license and destruction of works of offenders.

XIII. When any penalty is awarded for the breach of the conditions of any license under this Act or against the holder of any license for any offence under this Act, the local Government may cancel such license. The Officer who convicts the offender may also, on the application of the Commissioner of the Customs, or of the Collector of Customs within whose jurisdiction the offence is committed or other Officer authorized in that behalf by the local Government, order the works of such offender at which such offence was committed, to be destroyed.

Procedure until return is made to warrant of distress.

XIV. In case any penalty awarded under this Act shall not be forthwith paid, the Officer by whom such penalty is awarded may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his

appearance at such place and time as shall be appointed for the retu of the warrant of distress.

Imprisonment if distress not sufficient.

XV. If upon the return of such warrant it shall appear that sufficient distress can be had whereon to levy su fine, and the same shall not be forthwith paid, or case it shall appear to the satisfaction of such Offic by the confession of the offender or otherwise, that he has not sufficie goods and chattels whereupon such fine or sum of money could be levi if a warrant of distress were issued, any such Officer may, by warra under his hand, commit the offender, provided he is not a Europe British subject, to prison, there to be imprisoned, according to the d cretion of such Officer, for any term not exceeding two calendar mont when the amount of fine shall not exceed 50 Rupees, and for any te not exceeding four calendar months when the amount shall not exce 100 Rupees, and for any term not exceeding six calendar mont in any other case, the commitment to be determinable in each of t cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XVI. If the offender shall be a European British subject, t Magistrate shall record the facts, and transmit su record to the District Court of the District where the offender is convicted, and the amount of the fi and costs (if any) shall be levied in the manner provided for the exec tion of decrees of the Civil Court.

Act not to affect provisions of other laws relating to licenses.

XVII. Nothing in this Act shall be construe to alter or affect the provisions of any other la or regulation relating to licenses.

Commencement and operation of Act.

XVIII. This Act shall take effect in the North-Western Provinc on the last day of December, 1861, and may be e tended to any other parts of the British territori in India, by an order of the Governor-General India in Council to be published in the *Official Gazette.*

Act No. III. of 1862.

General.

An Act to amend the law relating to the use of a Government Seal.

Preamble.

Whereas it is expedient to adapt the law relating to the use o Government Seal to the present form of the Gov ment in India; It is enacted as follows:

What Seal to be used instead of the Seal of the East India Company.

Whenever it is required by any Regulation of a local Govern or by any Act of the Governor-General of Ind Council, that the Seal of the East India Com shall be affixed on behalf or by the authority of Government to any instrument or document, it sh be lawful, if the Seal is to be affixed on behalf or by the authority a local Government, to affix in lieu of the Seal of the East Inc Company a Seal bearing the designation of such local Governme or, if the Seal is to be affixed on behalf or by the authority of t Government of India, a Seal bearing the inscription "Government India," and such instrument or document so sealed shall to all inten and purposes be as valid and effectual as if the Seal so used had bee that of the East India Company.

Act No. IV. of 1862.

Bank of Bengal.

1. Repealed.
2. Present and future Proprietors continued a body corporate by the name of the Bank of Bengal.
3. Property of the Bank vested in the body corporate, subject to existing liabilities.—Pending ts not to abate.
4. The Bank may sue and be sued by its corporate name, and use a common seal, and acquire and nsfer property.
5. Capital of the Bank to consist of 10,700 shares of 1,000 Rupees each, divisible into half and arter shares.
6. Directors may, after notice, increase the Capital to the extent of not more than 30,000 shares 1,000 Rupees each.
7. A Proprietor may convert his shares, or part of them, into consolidated stock, and a subscriber new Capital may subscribe for shares or stock, or both.
8. Stock transferable in sums of not less than 250 Rupees.
9. Certificates of shares and receipts for stock to be signed by not less than three Directors, and y be demanded singly or in the aggregate.
10. Shares and Stock to be deemed personal estate.
11. Shares transferable by endorsement, and Stock by Deed of Transfer, executed and registered. nsfers of shares or stock liable to Duty under the Stamp Law.
12. Registered Proprietors alone to be members of the body corporate.—Bank not bound or ted by Trusts.
13. Business to be managed by nine Directors, of whom three shall be appointed and removable the Governor-General in Council, and the remainder by vote of the Proprietors.
14. Present Directors continued.
15. Two of the six elective Directors to go out of office in rotation every year, and two other ectors to be elected in their stead.
16. Clause 1. No person eligible as Director, who possesses less than twelve thousand Rupees in es or stock of the Bank, or who is connected with any other Bank in the Town or Suburbs.
Clause 2. No two persons, connected with the same mercantile Firm, qualified to serve as Direc- at the same time.
17. In case of death, resignation, or disqualification of any elective Director, a fresh election to be le within 15 days by a special meeting of the Proprietors.
18. At general meetings, all matters to be decided by majority of votes. Proprietor of trans- ed share or stock not to vote, unless transfer be registered six months before time of meeting.
19. Scale of Votes. Of joint Proprietors, the proprietor whose name is first in the Register is e to vote and to receive notices.
20. Governor-General in Council may vote by proxy on all matters, except the election or removal he elective Directors.
21. Proxies, general or special, may be given.
22. Directors to choose a President, in whose absence the senior Director in rotation shall be Vice- ident for the time. President or Vice-President to have a casting vote.
23. The Secretary or Deputy Secretary may endorse and transfer Government Securities, &c., and accept Bills of Exchange, &c., and sign accounts and receipts.
24. The Seal of the Bank to be used only in presence of three Directors, who shall sign in token heir presence :—Such signing to be independent of the signing of any witnesses.
25. Directors may appoint and remove Officers and fix their salaries.
26. The Secretary, Deputy Secretary, Head Accountant, and Khananchee prohibited from engaging y other commercial business, and required to give Security.
27. Specification of the business of the Bank.
28. Bank may draw Bills of Exchange and grant letters of credit payable out of India for the use constituents in the Agency Department.
29. Bank may take over the business of the General Treasury and undertake the management of overnment Currency Notes. Directors may from time to time arrange with the Governor-General uncil as to terms of remuneration, and as to the examination and audit of the accounts and affairs of Bank.
30. Directors not to make any loan or advance on shares or stock of the Bank, or on security of oveable property.
31. Books to be balanced half-yearly, and a statement of the balance to be transmitted to the rnment of India, who may call for any information or documents.
32. Directors to make half-yearly a dividend of the profits, after setting apart portion thereof for reserve fund.
33. A statement of affairs to be laid before the Proprietors at a general meeting to be held on the onday in every August.
34. An Auditor or Auditors may be elected annually.
35. Three Directors or ten Proprietors may convene a special general meeting upon giving 15 days' e of its purpose.
36. With sanction, Directors may establish Branch Banks and provide for the transaction of the ess of the local Government Treasuries, and management of the Government Currency Notes.
37. Directors may take over the capital and business of any other Bank by granting to its Pro- rs shares in the Bank of Bengal, and for that purpose may increase the capital-stock of the Bank.
38. Bank may withhold payment of dividends to any Proprietor who is indebted to the Bank until ent of the debt, and, after notice, may sell the shares or stock of such Proprietor for liquidation of ebt.
39. Bank not bound to recognise legal representatives of deceased Proprietors, unless they shall obtained Probate or Letters of Administration or Certificates under Act XXVII., of 1860.
40. Power of Directors and Proprietors to make, alter, and rescind Bye-laws, &c., subject to the oval of the Governor-General in Council.
41. Construction of Act.
42. Repealed.

An Act for regulating the Bank of Bengal.

Preamble. Whereas the Governor-General of India in Council has, pursuant to the provisions of Act VI. of 1839 (*relating to the Bank of Bengal*), given twelve months' due notice the Bank of Bengal that the provisions of the said Act, as regards power of the Bank to issue Promissory Notes under Section 31

of that Act, would be modified as hereinafter appears, and it is e dient that the provisions of the said Act, and of Act XXI. of 18 (*to amend the Law relating to the several Banks of Bengal, Madras, a Bombay*), and of Act XXVII. of 1855 (*to enable the Banks of Beng Madras and Bombay to transact certain business in respect of Governm Securities and Shares in the said Banks*), as regards the said Bank Bengal, should be re-enacted with certain amendments and modificatio hereafter contained; It is hereby enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Present Corporation continued.

II. From and after the coming into operation of this Act a notwithstanding the repeal of the said Act VI. 1839, the present and future Proprietors of capital stock of the Bank of Bengal shall contin to be a body corporate by the name of the Bank of Bengal with per tual succession, and shall continue to possess and enjoy all the rigl privileges, and immunities incident by law to a corporation aggregate.

Property of the Bank.

III. All property and securities for property, claims, and demar whatsoever, now vested in or held by the said Ba of Bengal under and by virtue of the said Act of 1839, shall, from and after the coming into ope tion of this Act; be vested and continued in the said Bank of Bengal and being a body corporate under and by virtue of this Act as aforesa and the said Bank of Bengal as such body corporate shall be subject all debts, demands, claims, and liabilities outstanding against the s Bank at the time of this Act so coming into operation, and no suit proceeding at law or in Equity then pending shall cease or abate consequence of the said Act VI. of 1839, or of the continuance of said Bank by virtue of this Act.

Bank may sue and be sued by corporate name and may hold and transfer property.

IV. The said Bank so continued as aforesaid shall and may sue be sued by its corporate name aforesaid, and shall may have and use such common seal as the Direc of the said Bank shall from time to time appoint, shall be competent as such body corporate to acq and hold, either absolutely or conditionally for a term or in perpetu any description of property whatever, and to transfer and convey same.

Capital of the Bank.

V. The existing capital of the said Bank now consisting of 2, shares of Co.'s Rs. 4,000 each, divisible into and quarter shares, shall continue to be the cap of the said Bank; but shall, from and after the coming into opera of this Act, consists of 10,700 shares of Rupees 1,000 each, divis into half and quarter shares, and such capital shall be subject to increase as next hereinafter mentioned.

Increase of the Capital.

VI. It shall be lawful for the Directors of the said Bank for time being, from time to time, as and when they s deem it expedient so to do, and on such prev notification as they may deem sufficient in behalf, to increase the said capital, and for that purpose to make orders and directions for the opening of subscriptions towards s increase of capital by the Proprietors of the Bank for the time bein to them may seem fit, and also to allow to the said Proprietors s period to fill up the subscription as to them the said Directors shall s meet, and also to prescribe in what manner and form the said Prop

the proportions of new
desire to subscribe, and
them the said Directors
it of the amount of new
aid up by Proprietors for
so prescribed: Provided, always,
ne said Bank, including any increase therein that
r Section 37 of this Act, shall not in the whole exceed
000 Rupees each.

l be lawful for any Proprietor of any 1,000 Rupees
share or shares or of any half or quarter share or
shares in the existing capital or in the new capital so
resaid, at any time and from time to time, to surren-
shares or half or quarter share or shares or any of
rs of the Bank for the time being, and to demand
he Bank, in lieu thereof, consolidated stock to the like
ted by the share or shares or half or quarter share
dered, and in like manner any Proprietor, or other
for any portion of the new or increased capital under
inbefore contained, may at his option subscribe for
lidated stock, or partly for shares and partly for stock.
nsolidated stock aforesaid shall be transferable (subject
to the provisions hereinafter contained with respect
to transfers) in any amount or sum not less than 250
Rupees, and the holder of any share or shares or half
r share, or of any consolidated stock, shall be a Pro-
rested in the capital of the Bank to the extent of the
res or half or quarter shares or stock so held by him.
ificate, signed by three Directors of the said Bank,
shall be delivered to the Proprietor of any share or
half or quarter shares of the capital of the said Bank,
upon demand made by such Proprietor; and any
e than one such share or half or quarter share may at
a certificate for each, or one certificate for all his
ipt shall in like manner on demand be delivered to the
stock, and any Proprietor of stock may, at his option,
t for the whole of the stock, or separate receipts for any
ck so held by him.

portion of the capital of the said Bank held by any
Proprietor, whether held as shares or as consolidated
stock, shall be of the nature of personal estate of such

in the capital shall be transferable by endorsement to
be made on the certificates thereof respectively, under
the hand of the Proprietor or his attorney duly author-
ized, which endorsement shall specify the name of
ns to whom the said transfer shall be made; and con-
l be transferable by a deed of transfer executed by
is duly authorized attorney, and in the form set forth
to annexed:* Provided, always, that no endorsement

as inadvertently omitted, but the omission has been supplied by

of a share certificate, or c
transfer any interest in
deed of transfer shall have
such registration shall ha
transfer, under the hand of
Directors of the said Bank.

Corporation to consist of registered proprietors only.

XII. The registered Proprietors for the time b
and stock into which the capital
shall be divided, and no other perso
bers of the body corporate hereb
the Bank shall not be bound or affe
any trust to which any share or stock may be subje
the registered Proprietor thereof; and when any share
in more than one registered Proprietor, such Pro
between themselves and the Bank, be considered as j
benefit of survivorship. The shares and stock registe
of the Governor-General in Council shall be deemed
Secretary of State for India in Council.

Directors.

XIII. The business of the said Bank shall be
Directors, of whom (so long as th
India shall hold shares or stock in
so long as any such arrangement or agreement with th
in Section 29 of this Act mentioned, which has be
ed into or shall hereafter be entered into, shall remai
shall be appointed and removable by the Governor-
in Council; and the remaining Directors, and, in cas
shall cease to hold shares or stock in the said Ba
arrangement or agreement as aforesaid shall remain
Directors shall be elected and be removable by vote of
of the Proprietors.

Present Directors continued.

XIV. The persons who at the time of this Act c
tion shall be Directors of the sa
tinue to be Directors of the said Ba
moval as aforesaid and to the pro
contained.

Two elective Directors to go out yearly by rotation.

XV. Two of the six Directors elected and to be e
Proprietors shall in rotation go out
cond Monday in the month of D
year, on which day a general meeti
shall be held for the election of two
stead: Provided, always, that any Directors going ou
aforesa id shall not be re-eligible at the election which
upon: Provided also, that the rotation existing at the
coming in to operation shall continue to be observed.

Disqualifications to serve as an elective Director.

XVI. *Clause* 1.—No person shall be eligible or
as a Director by election of the
shall not be a Proprietor, in his ow
cumbered, of shares or stock to
12,000 Rupees at the least of the Capital of the sa
shall be a Director or Agent or Manager of any othe
Bank within the town or suburbs of Calcutta, or who
of, or managing agent for, or shall hold a power of
any such Director, Agent, or Manager.

Clause 2.—No two persons who shall be partners of the same mercantile firm, or one of whom shall be the general agent of, or shall hold a power of procuration from, a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors at the same time.

No two partners, &c., of the same firm to serve as Directors at the same time.

XVII. In case of the death, resignation, or absence from Calcutta for more than three calendar months, or disqualification under the preceding Section or removal as aforesaid, of any Director elected or to be elected by the said Proprietors, the other Directors shall, within fifteen days after such death, removal, or resignation, call a special general meeting of the Proprietors for the purpose of choosing a successor to the Director so dead, resigned, absent, disqualified, or removed, and such successor shall come into the same place in the rotation above-mentioned, in which the deceased, removed, absent, or disqualified Director was.

Vacancies among the elective Directors how to be filled up.

XVIII. At general meetings of the Proprietors, whether ordinary or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, and no person shall be allowed to vote at any such meeting in respect of any share or stock acquired by transfer, unless such transfer shall have been completed and registered six months at the least before the time of such meeting.

At general meetings all matters to be decided by a majority of votes.

XIX. At all such general meetings, the Proprietors shall vote according to the following scale:

Scale of votes.

4	Shares of Rupees 1,000 each, or consolidated Stock amounting to 4,000, shall entitle to				1	Vote.
20	Shares or consolidated stock	ditto	ditto	Rs. 20,000	2	Votes.
40	"	ditto	ditto	" 40,000	3	"
60	"	ditto	ditto	" 60,000	4	"
80	"	ditto	ditto	" 80,000	5	"
120	"	ditto	ditto	" 1,20,000	6	"
160	"	ditto	ditto	" 1,60,000	7	"

and no Proprietor shall be entitled to more than seven votes: Provided that, when any share or stock shall be held by joint registered Proprietors, the Proprietor whose name shall appear first in the Register as one of the holders of such share or stock, shall alone be entitled to vote in respect thereof and to receive notices as if he were sole Proprietor thereof.

XX. It shall be lawful for the Governor-General of India in Council (so long as the Government shall hold shares or stock in the said Bank) to give a proxy in writing, signed by one of the Secretaries to Government, to any person whom the Governor-General in Council may appoint to attend any general meeting of the Proprietors, and the holder of such proxy shall be entitled to give seven votes upon all matters or questions that may be submitted to such meeting, excepting upon the election or removal of such Directors as are elected by the said Proprietors,

Government proxy.

XXI. Any Proprietor entitled to vote at any general meeting may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other Proprietor, and such proxy shall be produced at the time of voting, and shall entitle the person to whom

Proprietors' Proxies.

it is given to vote on such matters as shall be authorized by the tenor of such proxy. Proxies existing and in force at the time of this Act coming into operation shall continue in force, anything herein contained notwithstanding.

Directors to choose a President, who is to have a casting vote.

XXII. At the first meeting of the Directors in every year, they shall choose a President from among themselves, and whenever the office of President shall become vacant, they shall at their next meeting choose a successor for the remainder of the current year, and during any vacancy, or in the absence of the President, the senior Director in rotation shall be Vice-President for the time, and such President or Vice-President shall have the casting vote in all cases of an equal division of votes at meetings either of Directors or Proprietors.

Accounts, receipts, and other documents of the Bank, by whom to be signed.

XXIII. The persons for the time being holding the office of Secretary and Treasurer, or of Secretary alone, or of Deputy Secretary, of the said Bank, are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer Government securities, Railway shares, certificates, and Bonded Warehouse warrants, and other documents of title in goods standing in the name of the Bank, and to draw, accept, and endorse Bills of Exchange, Bank Post Bills, and Letters of Credit, in the current and authorized business of the Bank, and to sign all other accounts, receipts, and documents connected with such business.

Seal to be used only in presence of three Directors, who shall all sign.

XXIV. The Seal of the said Bank shall not be affixed to any instrument except in the presence of three Directors, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and, unless so signed by three Directors, such instrument shall be of no validity.

Appointment, removal, and remuneration of Officers, &c.

XXV. The Directors for the time being shall have power to appoint such officers, clerks, and servants as may be necessary to conduct the business of the said Bank, and to remove any officer, clerk, or servant of said Bank, and to fix the salaries of such officers, clerks, and servants.

Certain officers prohibited from engaging in other commercial business and required to give security.

XXVI. No person who shall hold the office of Secretary and Treasurer, Deputy Secretary, Head Accountant, or Khazanchee of the said Bank, shall directly or indirectly engage in any other commercial business, either on his own account individually, or jointly with others, or as agent for any other persons, or act as a broker; and every person appointed to any one or more of the said offices shall give such security to the Directors for the faithful discharge of his duty as they shall think sufficient: Provided that the security to be given by any Secretary or Treasurer shall be for not less than 50,000 Rupees.

Business of the Bank.

XXVII. The business of the said Bank of Bengal shall consist in lending on Government Securities, and shares in Railways, the interest whereon shall have been guaranteed by Government, and on goods, wares, and merchandize not of a perishable kind; in drawing, discounting, buying, and selling Bills of Exchange, and other negotiable securities payable in

Her Majesty's Indian territories and not elsewhere; in granting Post Bills payable in Her Majesty's Indian territories to order or otherwise than to bearer on demand; in buying and selling gold and silver bullion; in making investments in securities of the Government of India or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of Railways guaranteed by the Government of India; in receiving deposits; in opening cash accounts and credits; in transacting pecuniary Agency business on commission; and in selling property or securities deposited in the Bank as security for loans and not redeemed, or property or securities recovered by the Bank in satisfaction of debts and claims.

Bank may draw Bills of Exchange, &c., for the use of its constituents in the Agency Department.

XXVIII. In addition to drawing, buying, and selling Bills of Exchange and granting Post Bills payable in India, it shall be lawful for the Bank to draw Bills of Exchange and grant Letters of Credit payable out of India, for the use of their constituents in the Agency Department, and to buy Bills of Exchange payable out of India, for the purpose of remitting funds to meet such Bills or Letters of Credit.

Bank may take over the business carried on at the General Treasury, and undertake the management of the Government Paper Currency.

XXIX. It shall also be lawful for the said Bank through their Directors, under any arrangement or agreement with the Governor-General of India in Council on behalf of the Secretary of State for India in Council, to take over and transact any part of the business of or hitherto carried on at the General Treasury (or in the Department of the Accountant General at Fort William), and to superintend, manage, and become agents for the issue, payment, and exchange of Government Currency Notes under Act XIX. of 1861 (*to provide for a Government Paper Currency*) or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India, and to pay the amount of such Government Currency Notes in silver to the holders thereof on presentation and demand, and the Directors of the said Bank shall have power from time to time to arrange and settle with the Governor-General in Council as to the terms of remuneration on which such business in relation to the General Treasury, Accountant General's Department, and Government Paper Currency shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank on behalf of the Governor-General of India in Council.

Directors not to make loans on shares, &c.

XXX. The Directors of the said Bank shall not make any loan or advance on shares or consolidated stock of the said Bank, nor on mortgage, or in any other manner on the security of any lands, houses, or immoveable property or the title-deeds relating thereto.

Books to be balanced half-yearly.

XXXI. The Directors of the said Bank shall cause the books of the said Bank to be balanced on the 30th day of June and the 31st day of December in every year, or at such other periods as shall from to time be determined by the Directors, and a settlement of the balance at every such period, signed by a majority of the Directors, shall be forthwith transmitted to one of the Secretaries to the Government of India; and the Governor-General of India in Council (so long as Government shall

hold shares or stock in the said Bank, or so long as any such arrangement with the Government as aforesaid, which has already been or shall hereafter be entered into, shall remain in force) shall at all times be entitled to require of the said Directors any information touching the affairs of the Bank and the production of any documents of the said Bank, and the said Directors shall comply with every such requisition.

Dividends to be determined half-yearly.

XXXII. An account of the profits of the said Bank shall be taken half-yearly on the 1st day of January and the 1st day of July in every year, or at such other periods as may from time to time be determined on by the Directors, and a dividend thereof shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Directors of the said Bank, on the basis of the actual profits made by the said Bank during the six calendar months preceding the day up to which such half-yearly account shall be taken: Provided, that the said Directors shall, in their discretion, have power to set apart such portion of the said profits as they may deem expedient to be added to the reverse fund against contingencies.

General meeting of Proprietors.

XXXIII. On the 1st Monday of the month of August in every year, a general meeting of the Proprietors of the capital of the said Bank shall be held, at which the Directors of the said Bank shall submit to the said Proprietors a statement of affairs of the said Bank made up to the preceding 30th of June, or to such other day as may be determined on by the Directors.

Election of one or more Auditors.

XXXIV. At the first general meeting of the Proprietors of the Bank held after the coming of this Act into operation, one or more Auditors for the current year may be elected by a majority of votes at such meeting, and in like manner an Auditor may be elected at the first general meeting of the Proprietors in each current year.

Convening of special general meeting.

XXXV. Any three of the Directors or any ten Proprietors of the said Bank may at any time convene a special general meeting of the Proprietors upon giving 15 days' previous notice of such meeting, and of the purpose for which the same shall be convened as well to the Directors of the said Bank for the time being, as also by public advertisement in the *Calcutta Gazette.*

Establishment of Branch Banks.

XXXVI. It shall be lawful for the Directors of the said Bank, with the sanction of the Governor-General of India in Council, from time to time to form business agencies and to establish Branch Banks at such places as they may deem advantageous to the interests of the Bank, with full power to the said Directors to appoint during pleasure such agents, clerks, and servants, and either with or without local Boards of Direction or Management, and under such regulations, restrictions, and conditions as to them may seem fit, and from time to time to vary such regulations, restrictions, and condictions, and the said Agents and other Officers shall give such security for their good behaviour as the Directors may require; and it shall also be lawful for the Directors from time to time, under any arrangements or agreements with the Governor-General in Council on behalf of the Secretary of State in Council, to provide for the conduct and transaction by any such Branch Bank or Banks of any part of the business of or

hitherto conducted at the local Government Treasuries, and for the superintendence, management, and agency of the local issue, payment, and exchange of any Government Currency Notes: Provided that such arrangements and all regulations and directions given by the said Directors to the Agents or Managers of such Branch Banks, touching the management thereof or the description of business to be undertaken thereby, shall not contain anything inconsistent with or contrary to the provisions of this Act, or of any Bye-laws, Regulations, or orders which may be in force for the time being under the 40th Section of this Act.

Bank may take over capital and business of any other Bank, and for that purpose increase its own capital.

XXXVII. It shall be lawful for the Directors of the said Bank, from time to time, to enter into negotiations for, and to purchase and take over, the capital, assets, and business of any other Bank within Her Majesty's Indian territories, of which the capital is divided into shares, and to grant and allot to the Shareholders or Proprietors in such Bank, in full of their respective right, title, and interest in such capital, assets, and business, a sufficient number of shares in the capital stock of the said Bank of Bengal (which number shall be determined by the Directors), and for that purpose to increase the capital stock of the said Bank by the issue of such number of shares as may be so determined on. The Shareholders or Proprietors of the purchased Bank to whom such new shares shall be allotted, shall be Proprietors of the Bank of Bengal, and be in all respects in the same position as if they had respectively subscribed and paid for the shares so allotted to them: Provided, always, that the business so purchased shall, after the purchase, be carried on by the said Bank of Bengal with, and subject to, the several restrictions contained in this Act.

Proprietor becoming indebted to the Bank.

XXXVIII. If any of the said Proprietors shall become indebted to the said Bank, it shall be lawful for the said Bank to withhold payment of the dividends on the share or shares or consolidated stock of such Proprietor registered as his own property, and not as held in trust or as executor or administrator, until payment of such debt, and to apply such dividends towards payment thereof; and after demand and default of payment, and notice in that behalf given either to such Proprietor or his constituted agent, or by public advertisement in the *Calcutta Gazette*, it shall be lawful for the said Bank to refuse registration of the transfer of any such share or shares or stock of such Proprietor, until payment of such debt; and if the same shall remain unpaid for the space of six calendar months after such notice, to advertise for public sale, and to sell such share or shares or stock or so many or so much as may be necessary, and to apply the proceeds thereof towards payment of such debt, with interest at the rate of six per cent. per annum, paying over the surplus, if any, to such Proprietor or to his lawful representative.

Who is to be recognised as the representative of a deceased Proprietor.

XXXIX. Where by the death of any Proprietor his share or shares or stock shall devolve on his legal representive, the Bank shall not be bound to recognize any legal representatives of such deceased Proprietor other than a person who has taken out Probate to the will or Letters of Administration to the estate of such deceased Proprietor from the Supreme Court of Judicature at Fort William, or who has obtained a certificate in respect of the estate of such deceased Proprietor under

Act XXVII, of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), describing such shares or stock, from a Court of competent jurisdiction within the Presidency of Fort William.

Directors may make, alter, and rescind Bye-laws, &c.

XL. It shall be lawful for the Directors for the time being of the said Bank to make and pass Bye-laws, Regulations, and orders for the good government, and in reference to the mode of conducting the business of the Bank, and such Regulations and orders from time to time to modify, rescind, and vary, and it shall further be lawful for the Proprietors of the said Bank at any general meeting, whether ordinary or special, to pass resolutions and frame, and from time to time rescind and vary, Bye-laws and Rules for the direction of the affairs of the Bank, and the same shall be binding on the Directors and Officers and on the Proprietors of the Bank, until rescinded or varied at any subquent general meeting: Provided, always, that no Bye-law, Regulation, or order, or alteration, or rescission of any Bye-law, Regulation, or order, whether passed by the Directors or by the Proprietors at a general meeting, shall be of any validity except in so far as the same shall be consistent with the provisions of this Act, and shall be approved by the Governor-General of India in Council, such approval to be signified in writing under the hand of one of the Secretaries to the Government of India.

Construction.

XLI. In the construction of this Act, words in the singular number shall include the plural, words in the plural shall include the singular, and words in the masculine gender shall include the feminine, except where the contrary appears by the context.

XLII. *Repealed by the Repealing Act XIV. 1870.*

Act No. V. of 1862.

General.

1. On and after 1st March 1862, all sums payable by or to the Governments of India and Bengal to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.
2. Promissory Notes and Securities heretofore required to be presented at the General Treasury of Fort William to be presented at the Bank of Bengal.
3. After notice given, all sums payable by or to the Governments of Madras and Bombay at the General Treasuries of those Governments, to be payable at the Banks of Madras and Bombay respectively.
4. Promissory Notes and Securities heretofore presented at the General Treasuries at Madras and Bombay, to be presented at the Banks of Madras and Bombay respectively.
5. Securities not heretofore required to be presented at the General Treasuries, need not be presented at the Banks.

An Act to provide for the payment at the Banks of Bengal, Madras, and Bombay, respectively, of moneys payable at the General Treasuries of Calcutta, Madras, and Bombay.

Preamble.

Whereas, under the provisions of Act XXIV. of 1861, *to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has entered into an agreement with the Secretary of State for India in Council through the Governor-General of India in Council, that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort

William, as consists in receiving and paying money on behalf of the Supreme Government and the Government of Bengal, shall be carried on and transacted by the said Bank, subject to the provisions of the said agreement, and to such orders and directions with regard to receipts and payments as may from time to time be given to the said Bank by the Governor-General in Council, or any of the Officers of the Government of India authorized in that behalf:

And whereas the Governor-General in Council has given notice in the *Calcutta Gazette* that the Treasury of the Secretary of State for India in Council and of Her Majesty's Indian Government at Calcutta shall, from and after the 1st day of March, 1862, be established at the Bank of Bengal:

And whereas the Bank of Madras and the Bank of Bombay are in treaty with the Governor in Council of Madras and the Governor in Council of Bombay respectively, for the purpose of entering into similar agreements, and it is probable that such agreements will be shortly executed, and that similar notice to that hereinbefore mentioned will be given by the Governors in Council of Madras and Bombay in regard to the Banks of Madras and Bombay:

And whereas divers promissory notes and negotiable securities and other obligations for the payment of money, made by or on behalf of the Secretary of State for India in Council or by the Governor-General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, on behalf of the East India Company and of the Secretary of State for India in Council, are made payable at the General Treasury of Fort William in Bengal, the General Treasury at Madras, and the General Treasury at Bombay respectively:

And whereas divers other securities and other obligations are made payable to the Secretary of State for India in Council or to the said Governor-General in Council, or to the Governors in Council of Madras or of Bombay at the said General Treasuries of Fort William in Bengal, Fort St. George, and Bombay respectively; It is therefore enacted as follows:

On and after 1st March, 1862, all sums payable by or to Government to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.

I. On and after the 1st day of March, 1862, and until the expiration of fourteen days after notice shall be given in the *Calcutta Gazette* by the Governor-General of India in Council that the Treasury of the Government will be no longer held at the Bank of Bengal, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor-General of India in Council or the Government of Bengal on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, shall be payable by or to the Secretary of State in Council or by or to the Governor-General of India in Council or the Government of Bengal respectively on behalf of the Secretary of State in Council, at the Bank of Bengal instead of at the General Treasury at Calcutta.

Presentment of promissory notes, &c., at the Bank of Bengal.

II. Whenever presentment of any promissory note, security, or obligation for payment or for any other purpose at the General Treasury of Fort William in Bengal would, before the said 1st day of March, 1862, have been necessary or sufficient, presentment for such purpose at the Bank of Bengal shall be necessary or sufficient, as the

case may be, on and after the said 1st day of March, 1862, and until the expiration of fourteen days after such notice as in the 1st Section mentioned shall have been given.

Payment at the Banks of Madras, and Bombay, of sums payable by or to Government at the General Treasuries at Madras and Bombay.

III. If the Governors in Council of Madras and of Bombay respectively shall give notice, in the *Government Gazettes* of their Presidencies respectively, that the Banks of Madras and Bombay respectively have entered into agreements or arrangements with the Secretary of State for India in Council through the said Governors in Council, for the purposes mentioned in the Preamble of this Act, under the provisions of the said Act XXII. of 1861, and that from and after a date to be specified in such notice, the Treasury of the Secretary of State for India in Council, and of Her Majesty's Indian Government at Madras and Bombay respectively, shall be established at the Banks of Madras and Bombay respectively, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor of Madras in Council or the Governor of Bombay in Council on behalf of the Secretary of State for India in Council, at the General Treasury at Madras, or at the General Treasury at Bombay respectively, shall from and after the date specified in such notice, and until the expiration of fourteen days after notice shall have been given by the said Governors in Council respectively that the Treasury of the Government will be no longer held at those Banks respectively, be payable by or to the Secretary of State in Council, or by or to the Governor of Madras in Council, or by or to the Governor of Bombay in Council, on behalf of the Secretary of State in Council, at the Bank of Madras or the Bank of Bombay respectively, instead of at the General Treasury at Madras or the General Treasury at Bombay.

Presentment of promissory notes, &c., at the Banks of Madras and Bombay.

IV. In such case, whenever presentment of any promissory note, security, or obligation for payment or for any other purpose, at the General Treasuries at Madras or Bombay respectively, would have been necessary or sufficient, if such notice had not been given and this Act had not been passed, presentment for such purpose, at the Banks of Madras and Bombay respectively, shall be necessary or sufficient, as the case may be, on and after the date specified in such notice by the Governors in Council of Madras and Bombay respectively, and until the expiration of fourteen days after such notice as aforesaid that the said Treasury will be no longer held at those Banks respectively shall have been given.

Proviso as to presentment at the several Banks.

V. Nothing in this Act shall render necessary the presentment at the Banks of Bengal, Madras, and Bombay, respectively of any security or other obligation which it would not have been necessary to present at the General Treasuries of Bengal, Madras, and Bombay, respectively, if this Act had not been passed.

ACT No. VI. OF 1862.

An Act to annex a Schedule to Act IV. of 1862 *(for regulating the Bank of Bengal.)*

Preamble.

Whereas the Schedule referred to in Section 11 of Act IV. of 1862 *(for regulating the Bank of Bengal)* as Schedule A thereto annexed, has not been annexed thereto: and it is expedient to annex such Schedule to the said Act; It is enacted as follows:

Schedule A of Act IV. of 1862.

The Schedule hereto annexed, and marked A, shall be deemed and taken to be the Schedule referred to in Section 11 of the said Act IV. of 1862 as Schedule A thereto annexed, and to be annexed to, and to form part of, the said Act.

SCHEDULE A.

I, A. B. of————do hereby transfer to C. D. of————consolidated stock of the Bank of Bengal to the amount of Rupees————standing in my name, to hold unto the said C. D., his executors, administrators, representatives, or assigns, subject to the conditions on which I hold the same at the time of the execution hereof.

Dated the——day of————

ACT No. VII. OF 1862.

An Act to amend Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Labourers to the French Colonies.)*

Preamble.

Whereas since the passing of Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Labourers to the Erench Colonies)* the Convention therein recited between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French has been varied in the following particulars: that is to say, by substituting for Article XXVI. in the said Convention as so recited in the said Act, the following Article:—

"ARTICLE XXVI.

The present Convention shall begin to take effect on the 1st of July, 1862; its duration is fixed at three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of July of the third year, and then notice can be given only in the course of the month of July of each succeeding year.

In case of such notice being given, it shall cease eighteen months afterwards.

Nevertheless, the Governor-General of British India in Council shall, in conformity with the Act of the 19th of Septenber, 1856, relative to Emigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the Emigrants immediately upon their arrival or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage.

In case, however, the power thus reserved to the Governor-General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indian subjects until they shall either have been sent back to their own country, or have renounced their right to a return passage to India."

And also by the addition of the two following Articles which were not comprised in the Convention or recited in the said Act, that is to say :—

ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Re-union, that Colony has, since last year, had to obtain labourers from India and China; and Her Britannic Majesty having, by Convention signed on the 25th of July, 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Re-union to recruit six thousand labourers in Her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith with regard to the said Colony of Re-union.

The present Additional Article shall have the same force and validity as if it were inserted word for word in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention."

And whereas the said Convention, with such alterations and additions as aforesaid, together with such additional Article, has been duly signed, ratified, and confirmed:

It is declared and enacted as follows :—

Act XLVI. of 1860 to be applicable to the Convention as signed and ratified.

All the provisions of Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Labourers to the French Colonies)* shall be and remain in full force notwithstanding that the Convention therein recited had been so altered and added to before the same was signed or ratified as aforesaid: and all such provisions, in so far as the same relate to the Convention recited in the said Act, shall be deemed to apply, and shall apply, to the said Convention as signed and ratified as aforesaid, together with the additional Article thereof.

ACT No. VIII. OF 1862.

King of Oude.

1. The King of Oude exempted from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under the Penal Code.
2. Police not to arrest the King without a warrant, nor for any purpose to enter the dwelling-house of the King, except in the presence and with the sanction of the Agent.
3. In cases not excepted, the Governor-General in Council, on report of the Agent, may issue a Commission for the trial of the offence. Such Commission not to pass sentence.
4. Repealed.
5. The King exempted from appearance as a witness before any Court or Commissioner.
6. The evidence of the King to be taken by interrogatories to be transmitted to the Agent.
7. The King's affidavit to be taken and sworn before the Agent.
8. No other person but the Agent, entitled to be present when the King is being examined or sworn.
9. Examinations and affidavits of the King to be admissible in evidence and subject to objections.
10. Act not to continue in force after the death of the King.

An Act to protect the personal dignity of His Majesty the King of Oude.

Preamble.

Whereas it is expedient, with a view to protect the personal dignity of the King of Oude, in accordance with the promise made to His Majesty on the part of the British Government, that His said Majesty should be partially exempted from the jurisdiction of the Civil, Revenue, and Criminal Courts; It is enacted as follows:

King of Oude exempted from jurisdiction of the Criminal Courts, except for capital offences.

I. His Majesty the King of Oude is hereby declared to be, and is, exempt from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under the Indian Penal Code. Except for such offences, no Criminal Court or Magistrate shall enquire into any complaint, or issue any process, against His said Majesty.

Police not to arrest the King without warrant, nor to enter the dwelling-house of the King except in the presence of the Agent.

II. No Police Officer or other person shall arrest His said Majesty without warrant, and no Police Officer or other person, whether charged with the execution of a warrant or not, shall, for the purpose of arresting any person or searching for anything, enter into or remain in any house in which His Majesty may at the time be residing, except in the presence and with the sanction of the Officer appointed to be Agent with His Majesty on the part of the British Government.

Issue of Commission for the trial of other than capital offences.

III. If any complaint be made or information preferred against His said Majesty for any offence other than the offences excepted in Section 1 of this Act, the Officer appointed to be Agent with His said Majesty may enquire into the case and make a report thereon to the Governor-General in Council, and the Governor-General in Council, on receipt of any such report, may issue a Commission for the trial of such offence, and may vest the said Commission with any of the powers vested in any Court by the Code of Criminal Procedure: Provided that, in case of conviction, the said Commission shall not pass sentence, but shall report its judgment to the Governor-General in Council, who shall thereupon give such directions in respect to the custody of the person of His said Majesty or the disposal of his property, as the exigency of the case may seem to require.

IV. *Repealed by Section 4 of Act XIII.*, 1868.

King exempted from appearing as a witness.

V. His said Majesty shall not be required to appear personally as a witness in any Court, or before any Commissioner appointed by any Court, to be examined or make

affidavit when his evidence or affidavit is required in any Civil, Revenue, or Criminal suit or proceeding.

Mode of taking King's evidence.

VI. When the evidence of His Majesty is required in any such suit or proceeding, the Court or the party requiring the same shall cause to be prepared interrogatories in writing for the examination of His said Majesty. If the case is one in which any other party in such suit or proceeding would, by law, have a right to cross-examine, such party shall be at liberty to prepare cross-interrogatories. The interrogatories and cross-interrogatories (if any) shall be transmitted to the Officer appointed to be Agent with His said Majesty, who shall exhibit the same to His said Majesty and take down in writing His Majesty's answers thereto, given on solemn affirmation. The interrogatories and cross-interrogatories (if any) with the answers thereto shall be returned to the Court before whom the suit or proceeding is pending, together with a certificate, from the said Officer appointed to be Agent, of the answers of His said Majesty having been duly taken.

Mode of taking King's affidavit.

VII. When any affidavit is required to be sworn by His said Majesty in any suit or proceeding, such affidavit shall be taken and sworn before the said Officer appointed to be Agent, who shall return such affidavit, with a certificate of its having been duly sworn, to the Court or Officer before whom the same is to be used.

Examinations to be taken in private.

VIII. Except with the consent of His said Majesty, no person, other than the said Officer appointed to be Agent, shall be entitled to be present when His said Majesty is being examined on interrogatories or sworn to any affidavit under the provisions of this Act.

Examination, &c., taken under the Act, admissible in evidence.

IX. The answers to interrogatories or affidavit of His said Majesty taken and sworn under the provisions of this Act shall be admissible in evidence, and subject to the same objections as if such answers or affidavit had been taken or sworn in open Court or under a Commission.

Duration of Act.

X. This Act shall not continue in force after the death of His said Majesty.

Act No. XIII. of 1862.

General.

1. Repealed.
2. Except as provided by Act VI. of 1847 in respect of Cents, no Silver or Copper Coin other than those specified in this Act, to be coined
3. The Rupee to weigh 180 grains Troy, and to contain one-twelfth Alloy. Other Silver Coins in proportion.
4. The Pice to weigh 100 grains Troy, and other Copper Coins in proportion.
5. Until otherwise ordered, Coin to bear on the obverse the likeness and name of the Queen, and on the reverse the designation of the Coin with the word "India."
6. Governor-General in Council may from time to time vary devices and inscriptions.
7. Rupee and Half Rupee to be legal tender in all cases, if not decreased in weight by more than 2 per cent., or clipped, or filed.
8. Quarter Rupee and Eighth of a Rupee legal tender for fractions of a Rupee.
9. Double Pice legal for a 32nd part of a Rupee, or Half Anna; Pice for 64th part of a Rupee or quarter Anna; Half Pice for 128th part of a Rupee, or ⅛th Anna; Pie for 192nd part of a Rupee, or $\frac{1}{12}$th Anna. Copper Coins to be legal tender in the Straits' Settlement for fractions of a Dollar at the rate fixed by Act XVII. of 1855.
10. Silver and Copper Coins issued under former Acts before 1st November, 1862, to continue to be legal tender subject to the conditions of those Acts.
11. Existing Acts not repugnant to this Act to continue in force.
12. Interpretation.

An Act to provide for a new Silver and a new Copper Coinage.

Preamble.

Whereas it is expedient to provide for a new Silver and a new Copper Coinage; It is enacted as follows:

I. *Repealed bg the Repealing Act XIV.*, 1870.

II. From the 1st day of November, 1862, except as provided by Act VI., of 1847 (*for establishing a Copper Currency in the Settlements of Penang, Singapore, and Malacca*), in respect of Cents, half Cents, and quarter Cents, no Silver or Copper Coins, except those mentioned below, shall be coined at the Mints in British India—

Description of Coins.

Silver Coin.

A Rupee to be called the Government Rupee.
A Half Rupee.
A Quarter Rupee or Four Anna Piece.
An Eighth of a Rupee or Two Anna Piece.

Copper Coin.

A Double Pice or Half Anna.
A Pice or Quarter Anna.
A Half Pice or one-eighth of an Anna.
A Pie, being one-third of a Pice, or one-twelfth of an Anna.

III. The Rupee so coined shall be of the same weight and standard as those provided for the Company's Rupee by the said Act XVII. of 1835, that is to say, the weight shall be 180 grains Troy, and the standard as follows:—$\frac{11}{12}$th or 165 grains of pure Silver: $\frac{1}{12}$th or 15 grains of Alloy. The other Silver Coins shall be of proportionate weight and of the same standard.

Silver Coins to be of what weight and standard.

IV. The Copper Coins so coined shall be of the weight prescribed for Coins of the same denominations respectively by Acts XXI. of 1835 and XI. of 1854, that is to say:—

Copper Coins to be of what weight.

The Double Pice shall weigh			200	grains Troy.
The Pice	...	...	100	"
The Half Pice	...	...	50	"
The Pie ...	...	...	$33\frac{1}{3}$	"

V. Until the Governor-General in Council shall otherwise order under the powers hereinafter reserved, the Silver and Copper Coins so coined shall bear on the obverse the likeness and the name of Her Majesty Queen Victoria, and the inscription "Victoria Queen," and on the reverse the designation of the Coins in English filled by the word "India," with such date and embellishments on each Coin as the Governor-General in Council shall from time to time direct.

Inscriptions on coins.

VI. It shall be lawful for the Governor-General in Council, from time to time, to direct the coining and issuing of coins authorized by this Act, and to prescribe, in lieu of the likeness and inscription as heretofore prescribed, such other devices and inscriptions and embellishments for all or any of the Coins hereby authorized as, by an order in Council to be published in the Official Gazette, he may direct.

Government may order other devices, &c.

VII. The said Rupee and Half Rupee shall be a legal tender in payment or on account of all engagements whatever, provided the Coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped or filed, or have been defaced or diminished otherwise than by use.

Silver Coin how far to be legal tender.

VIII. The Quarter Rupee and Eighth of a Rupee shall be legal tender only for fractions of a Rupee, subject to the same provisions as in the last preceding Section mentioned.

Copper Coin how to be legal tender.

The Double Pice shall be a legal tender for a thirty-second part of a Rupee or for half an Anna.

The Pice for a sixty-fourth part of a Rupee, or for one-fourth of an Anna.

The Half Pice for a hundred-and-twenty-eighth part of a Rupee, or for one-eighth of an Anna; and the Pie, one-third of a Pice, for a hundred-and-ninety-second part of a Rupee, or the twelfth of an Anna.

Provided that none of the said Copper Coins shall be a legal tender, except for the fractions of a Rupee, except in the Settlement of Prince of Wales' Island, Singapore, and Malacca for the fractions of a Dollar, at the rate fixed by Act XVII. of 1855, namely, the Pice for a hundred-and fortieth part of a Dollar; the Double Pice for a seventieth part of a Dollar; the Pie for a four-hundred-and-twentieth part of a Dollar; and the Half Pice for a two-hundred-and-eightieth part of a Dollar.

Coins issued under former Acts to continue to be legal tender.

X. All Silver Coins of the weight and standard specified in the said Acts XVII. of 1835 and XXI. of 1838, issued since the passing of those Acts respectively, and before the 1st day of November, 1862, and declared by those Acts respectively to be a legal tender, and all Copper Coins of the weight specified in the said Acts XXI. of 1835, XXII. of 1844, and XVII. of 1855, issued since the passing of those Acts respectively, and before the 1st day of November, 1862, and declared by those Acts respectively to be a legal tender, shall continue to be a legal tender for the amounts thereof respectively, subject to the same conditions and provisions as under those Acts respectively, any thing in this Act contained notwithstanding.

Existing Acts to continue in force.

XI. All Acts and Laws in force in British India at the time of the passing of this Act respecting the Queen's Coin or the Silver or Copper Coin current in British India, and not repugnant to the provisions of this Act, shall be and continue in full force and effect, and shall be applied to the Silver and Copper Coin to be coined in pursuance of this Act.

Definition of "British India".

XII. The words "British India" in this Act denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vict., c. 106, entitled "An Act for the better Government of India."

Act No. XVII. of 1862.

1., 2. Repealed.

3. In places in which the Code did not come into operation on 1st January, 1862, those Regulations and Acts repealed, from the date of the extension of the Code to such places.

4. Offences committed before 1st January, 1862, in places in which the Code is in operation, to be investigated and tried under its provisions; but person convicted not to be liable to any other punishment than he would have been liable to before that date, nor to be deprived of previous rights of appeal or reference.

5. In places to which the Code shall be extended after the passing of this Act, offences committed before such extension to be similarly investigated and tried.

6. Sentences passed for offences committed before the Code came into operation, not to be quashed or set aside by reason only of the new Procedure having been followed. But if the accused has been deprived of any right of appeal or reference, the Sudder Court may call for the proceedings.

7. Repealed.

An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.

Whereas by Act XLV. of 1860 a Penal Code has been prescribed

Preamble.

for British India, and the said Code came into operation on the 1st day of January, 1862; and whereas by Act XXV. of 1861 a Code of Procedure is provided for the Courts of Criminal Judicature not established by Royal Charter, and the said Code likewise came into operation on the 1st day of January, 1862, in the Presidencies of Bengal, Madras, and Bombay, and was at the same time, or has since been, or hereafter may be extended to other parts of British India; and thereas it is expedient to repeal, in the manner hereinafter provided, certain Regulations and Acts relating to Criminal Law and Procedure; It is enacted as follows:

I, II. *Repealed by Act VIII.*, 1868.

Repeal of the same Regulations and Acts in places where the Code did not come into operation on 1st January, 1862.

III. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by Section 1 of this Act, and which were in force on the said 1st day of January, 1862, in any part of British India in which the said Code of Criminal Procedure did not come into operation on the said 1st day of January, 1862, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the date on which the said Code shall have been or shall hereafter be extended to such part of British India, be held to have been or shall be repealed in such part of British India, from the date on which the said Code shall have been or shall be so extended thereto.

Procedure and powers in the investigation and trial of offences committed before 1st January, 1862.

IV. In the investigation and trial of offences committed before the said 1st day of January, 1862, the Criminal Courts of the several grades, and the Officers of Police, shall, after the passing of this Act, be guided by the provisions of the Code of Criminal Procedure so far as the same can be applied, wherever the said Code shall be in operation at the time of such investigation or trial; and for the trial and punishment of such offences, such Courts shall exercise the jurisdiction and powers vested in them under the said Code of Criminal Procedure: Provided that no person convicted of any such offence shall be liable to any other punishment than that to which he would have been liable had he been convicted of such offence before the said 1st day of January, 1862, and that no such person, who shall claim the same, shall be deprived of any right of appeal or reference to a Sudder Court which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed.

Procedure in places to which the Code is extended after the passing of this Act.

V. In any part of British India to which the Code of Criminal Procedure shall be extended after the passing of this Act, the said Code shall, subject to the provisions of the last preceding Section, be followed in the investigation and trial of any offences committed before the date of such extension.

Sentences passed for offences Committed before 1st January, 1862, not to be quashed by reason only of the procedure of the Code having been followed.

VI. No sentence passed before the passing of this Act for any offence which shall have been committed before the 1st day of January, 1862 (or whenever the said Code of Criminal Procedure shall not have been extended to any place in British India on the said 1st day of January, 1862, then before the date on which the said Code shall have been extended to such place,)

shall be liable to be quashed or set aside by reason only of the Procedure in the investigation or trial of any such offence having been wholly or in part the Procedure provided by the said Code of Criminal Procedure: Provided that, if in any such case it shall appear that the accused party has been deprived of any right of appeal or reference to a Sudder Court, which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed, the Sudder Court or the highest Court of Criminal Jurisdiction may call for the precedings in the case and pass such order thereon as it may deem just and proper.

VII. *Repealed by Act VIII.*, 1868.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act XIII. of 1835 ...	.....	The whole Act.
„ XV. of 1835 ...	.....	Ditto.
„ XVIII. of 1835 ...	.....	Ditto.
„ XX. of 1835 ...	.....	Ditto.
„ VI. of 1836 ...	.....	Ditto.
„ XXX. of 1836 ...	.....	Ditto.
„ XVIII. of 1837 ...	.....	Ditto.
„ XXI. of 1837 ...	.....	Section 4
„ XXIII. of 1837 ...	.....	The whole Act.
„ XXVII. of 1837 ...	.....	Section 12
„ XX. of 1837 ...	.....	The whole Act.
„ XXXIII. of 1837 ...	.....	Ditto.
„ XXXVII. of 1837 ...	.....	Ditto.
„ III. of 1838 ...	.....	Ditto.
„ IX. of 1838 ...	.....	Ditto.
„ XXVI. of 1838 ...	.....	Ditto.
„ II. of 1839 ...	.....	Ditto.
„ XVIII. of 1839 ...	.....	Ditto.
„ XIX. of 1839 ...	.....	Ditto.
„ I. of 1840 ...	An Act for regulating the Procedure on trials referred to the Court of Foujdaree Adawlut at Madras.	Ditto.
„ IV. of 1840 ...	An Act for preventing affrays concerning the possession of land, and for providing relief in cases of forcible dispossession, within the Presidency of Fort William in Bengal.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act V. of 1840 ...	An Act concerning the oaths and declarations of Hindoos and Mahomedans.	Sections 2 and 3.
„ XI. of 1840 ...	An Act for the Presidency of Bombay, amending the law concerning prisoners sentenced to labour or solitude.	Ditto.
„ XVII. of 1841 ...	An Act for amending the proceedings in appeals before the Courts of Sudder Dewanny and Nizamut Adawlut in the Presidency of Fort William in Bengal.	Section 2, so much as was not repealed by Act X. of 1861.
„ XXI. of 1841 ...	An Act for the better prevention of local nuisances.	The whole Act.
„ XXX. of 1841 ...	An Act for repressing obstructions to justice in certain Courts of the East India Company.	Section 1.
„ XXXI. of 1841 ...	An Act for amending the provisions of the Bengal Code touching Criminal Appeals, and the revision of sentences and orders of Criminal Courts.	The whole Act.
„ VIII. of 1842 ...	An Act for describing in Legislative Acts, with greater certainty and convenience, the Courts of the highest jurisdiction in the respective Presidencies.	Ditto.
„ XVIII. of 1842 ...	An Act for facilitating preliminary investigations of criminal cases connected with the collection of the revenue within the Presidency of Bombay.	Ditto.
„ IV. of 1843 ...	An Act for amending the law concerning appeals from Justices of the Peace, and from Magistrates acting under the Statute 53 George III., c. 155.	Ditto.
„ VII. of 1843 ...	An Act for abolishing Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I. and II. and Regulations VII. and VIII. of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil jurisdiction of such Courts.	Sections 27, 29, 30, 31, 32, 33, 34, 36, 37, 41, 42, 43, 51, 54, 55, and 56.
„ XV. of 1843 ...	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	In so far as it relates to the powers of Deputy Magistrates or Judicial Officers.
„ XXIV. of 1843 ...	An Act for the better prevention of the crime of dacoity.	The whole Act.
„ III. of 1844 ...	An Act for legalizing the infliction of corporal punishment in cases of petty larceny generally, and when committed by offenders of tender age.	Ditto.
„ XIV. of 1844 ...	An Act for regulating the proceedings of the Sudder Courts of Fort William, Fort St. George, Bombay, and at Agra, in regard to sentences of transportation for life.	Ditto.
„ II. of 1845 ...	An Act for regulating the punishment of adultery in the Courts of the East India Company, in the Territories subject to the Presidency of Bombay.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act X. of 1845 ..	An Act for empowering Courts to issue warrants in cases of failure to serve summons.	The whole Act.
„ XVIII. of 1845 ...	An Act for the punishment of offences committed by convicts sentenced to imprisonment for life.	Ditto.
„ XXVII. of 184 ...	An Act for enabling Assistant Magistrates vested with special powers to decide cases under the provisions of Act IV. of 1840.	Ditto.
„ XXX. of 1845 ..	An Act for enabling Session Judges within the Madras Presidency to award fines in compensation to injured parties.	Ditto.
„ VII. of 1846 ...	An Act regarding the deposit of diet-money for witnesses in petty cases.	Ditto.
„ X. of 1847 ...	An Act for amending Act XXX. of 1836. ...	Ditto.
„ XX. of 1847 ...	An Act for the encouragement of learning in the Territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copy right therein.	Section 4.
„ I. of 1848 ...	An Act to regulate the proceedings in certain cases of forgery.	The whole Act.
„ III. of 1848 ...	An Act for removing doubts as to the meaning of the words "thug" and "thuggee," and the expression "murder by thuggee," when used in the Acts of the Council of India.	Ditto.
„ V. of 1848 ...	An act to amend the law regarding the taking of Mochulkas or penal recognizances.	Ditto.
„ XI. of 1848 ...	An Act for the punishment of wandering gangs of thieves and robbers.	Ditto.
„ XIX. of 1848 ..	An Act for better defining the law as to revision of the sentences of subordinate Criminal Courts in the Presidencies of Bengal and Madras.	Ditto.
„ IV. of 1849 ...	An Act for the safe custody of Criminal lunatics.	Ditto.
„ XIV. of 1849 ...	An Act to punish tampering with the Army or Navy.	Ditto.
„ VII. of 1850 ...	An Act for better defining the law as to the removal of prisoners.	Ditto.
„ XIII. of 1850 ...	An Act for punishing breaches of trust ...	Ditto.
„ XVI. of 1850 ...	An Act for the restitution of the value of stolen property.	Ditto.
„ XXXVIII. of 1850	An Act to allow Counsel to all persons on the trial of offences.	Ditto.
„ IV. of 1851 ...	An Act for the appointment of Uncovenanted Deputy Magistrates, and for defining the duties of Deputy and Assistant Magistrates in Bombay.	Ditto.
„ XVI. of 1851 ...	An Act for the trial of receivers of stolen property.	Ditto.
„ XXXII. of 1852 ...	An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain criminal acts.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act I. of 1853 ...	An Act for providing in the Presidencies of Fort St. George and Bombay for the punishment of males of tender age for petty thefts.	The whole Act.
„ VII. of 1854 ...	An Act for the apprehension, within the Territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said Territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.	So much of the Act as relates to warrants issued otherwise than under the provisions of the said Act.
„ X. of 1854 ...	An Act for regulating the powers of Assistants to Magistrates and of Deputy Magistrates appointed under Act XV. of 1843.	So much of Section 1 as recites that the order passed by any Assistant or Deputy Magistrate shall be subject to appeal, and Sections 2 and 3.
„ XII. of 1854 ...	An Act for conferring Criminal jurisdiction upon District Moonsiffs in the Presidency of Madras.	The whole Act.
„ XV. of 1855 ...	An Act to amend Regulation III. of 1833 of the Bombay Regulations.	Ditto.
„ XVI. of 1855 ...	An Act to amend the law in force in the Presidency of Bombay concerning the use of badges.	Ditto.
„ XIX. of 1855 ...	An Act to amend the law relating to District Moonsiffs in the Presidency of Fort St. George.	Section 5.
„ I. of 1856 ...	An Act to prevent the sale or exposure of obscene books and pictures.	The whole Act.
„ II. of 1856 ...	An Act to enable Magistrates and certain other Officers to take cognizance of certain offences without requiring a written complaint.	Ditto.
„ IV. of 1856 ...	An Act to prevent the malicious or wanton destruction of Cattle.	Ditto.
„ XVII. of 1856 ...	An Act to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same.	Ditto.
„ III. of 1857 ...	An Act relating to trespasses by Cattle ...	So much of Section 13 as provides that offences under the said Section shall be dealt with by the Police Officers according to the provisions of Section 25, Regulation XX. of 1817 of the Bengal Code, Section 27, Regulation XI. of 1816 of the Madras Code, and Section 43, Regulation XII. of 1827 of the Bombay Code.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act VII. of 1857 ...	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	Section 4.
„ XI. of 1857 ...	An Act for the prevention, trial, and punishment of offences against the State.	Sections 1 and 2.
„ XXIV. of 1859 ...	An Act for the better Regulation of the Police within the territories subject to the Presidency of Fort St. George.	Sections 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43, and so much of the Schedule as repeals Clause 1, Section 11 of Regulation XI. of 1816.
„ III. of 1860 ...	An Act to empower Sessions Judges to pass sentence in certain cases without reference to the Sudder Court.	The whole Act.
„ XVII. of 1860 ...	An Act to repeal Act V. of 1858 (for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders, and to make certain provisions in lieu thereof.)	Section 11.
„ XXXV. of 1860 ...	An Act relating to the transportation of convicts.	The whole Act.
„ XXII. of 1861 ...	An Act to amend Act III. of 1857 (relating to trespasses by Cattle.)	Sections 1, 2, 3, 4, and 5.

BENGAL.

Regulation IX., 1793 ...	A Regulation for re-enacting, with alterations and modifications, the Regulations passed by the Governor-General in Council, on the 3rd December, 1790, and subsequent dates, for the apprehension and trial of persons charged with crimes or misdemeanors.	Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 23, 26, 27, 29, 47, 48, 49, 50, 51, 53, 54, 56, 57, 58, 61, 64, 65, 74, 75, 77, and 78.
„ XIII., 1793 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective duties.	Sections 9 and 11.
„ XXII., 1793 ...	A Regulation for re-enacting, with alterations and amendments, the Regulations passed by the Governor-General in Council, on the 7th December, 1792, for the establishment of an efficient Police throughout the country.	Sections 10, 16, 22, 31, 32, 33, 34, and 38.
„ VII., 1794 ...	A Regulation for enabling one Judge of Circuit to hold the Courts for the half-yearly and monthly gaol deliveries; and for empowering one of the Judges of the Provincial Court of Appeal in each division to remain at the Sudder Station to transact certain parts of the business of the Court, whilst the other Judges are making the Circuits; and for providing against the absence or indisposition of the Judges or their Law Officers, and against vacancies in the Judicial and Law appointments.	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XVII., 1795	A Regulation for the apprehension and trial of persons charged with crimes or misdemeanors in the Province of Benares; for enabling one of the Judges in his capatity of Judge of the Provincial Court of Appeal, to transact certain parts of the business of that Court whilst the other two Judges, as Judges of Circuit, are making the Circuits; and for providing against the absence or indisposition of any of the Judges or their Law Officers, and against vacancies in the Judicial or Law appointments.	Section 4, Clause 1, in so far as it extends the provisions of Regulation IX. of 1793 which are repealed by this Act, and Clauses 2, 4, and 5, and the following Sections of the Regulation.
„ XVII., 1795 ...	A Regulation for the establishment of an efficient Police in the Province of Benares.	Sections 10, 20, 29, 30, 31, 32, and 35.
„ XXI., 1795 ...	A Regulation for preventing Brahmins in the Province of Benares establishing koorhs, wounding or killing their female relations or children, or sitting dhurna; and for preventing the tribe of Raujecoomars in that Province killing their female children.	The whole Regulation.
„ II., 1796 ...	A Regulation for the guidance of the Zillah and City Magistrates in the Provinces of Bengal, Behar, Orissa, and Benares, in apprehending and bringing to trial European British subjects charged with acts which may render them liable to a Criminal prosecution.	Ditto.
„ IX., 1796 ...	A Regulation for the more certain ascertainment of the witnesses whom prisoners committed for trial before the Courts of Circuit may be desirous to have examined in their defence; and of the causes of the non-attendance of any witnesses named by prisoners or prosecutors, to give evidence before the Courts of Circuit.	Dittto.
„ XI., 1796 ...	A Regulation for providing against resistance to the processes of the Zillah and City Courts and Police Officers, as well as for compelling the appearance of persons charged with acts of a Criminal nature, who may abscond, or otherwise evade the process issued against them.	Ditto.
„ II., 1797 ...	A Regulation for defining more specifically the responsibility of the land-holders and farmers of land in the Province of Benares, under the charge of the Police vested in them, conformably to their engagements by Regulation XVII., 1795.	Section 3.
„ IV., 1797 ...	A Regulation for making sundry alterations in, and additions to, Regulation IX., 1793.	The whole Regulation.
„ XIII., 1797 ...	A Regulation for the occasional exercise of Judicial powers by the Assistants to the Zillah and City Magistrates in the Provinces of Bengal, Behar, Orissa, and Benares.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XIV., 1797	A Regulation for empowering the Court of Nizamut Adawlut to extend relief to certain prisoners sentenced to deyut and pecuniary fines, or to restore stolen property, or the value of it, and to remain in confinement until the completion of their sentences, also for preventing sentences of the same nature in future; and for drawing the distinction between the Courts of Civil and Criminal Jurisdiction more clearly and obviously.	The whole Regulation.
„ III., 1798 ...	A Regulation for establishing annual vacations of the Civil Courts of Justice; for postponing the commencement of the half yearly gaol deliveries during such vacations; and for establishing a fixed order of succession in the goal deliveries of the several Zillahs and Cities throughout the Provinces of Bengal, Behar, Orissa, and Benares.	Ditto.
„ II., 1799 ...	A Regulation for monthly gaol deliveries in the Cities of Dacca, Moorshedabad, and Patna; and for declaring convicts who may escape from confinement during their sentences, liable to transportation.	Ditto.
„ IV., 1799 ...	A Regulation for the trial of persons charged with crimes against the State.	Ditto.
„ VIII., 1779...	A Regulation for certain modifications of the Mahomedan law in cases of murder; and to explain parts of Regulation XXI. of 1795 and Regulation V. of 1797, in cases of dhurna.	Ditto.
„ X., 1799 ...	A Regulation to prevent delay in the transmission of the records of trials referred to the Court of Nizamut Adawlut.	Ditto.
„ III., 1801 ...	A Regulation for putting a stop to the practice which prevails in many parts of the Company's Provinces, of parties in Civil suits preferring unfounded accusations of perjury against the witnesses in such suits, and unfounded charges of subornation of perjury against the adverse parties in such suits.	Ditto.
„ VIII., 1801	A Regulation for modifying the Mahomedan law in certain cases of kutlkhota, or accidental homicide, and in other cases of the like nature.	Ditto.
„ VI., 1802 ...	A Regulation for preventing the sacrifice of children at Saugor and other places.	Ditto.
„ VI., 1803 ...	A Regulation for the guidance of the Magistrates of the several Zillahs in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, in apprehending persons charged with crimes or offences, and bringing them to trial.	The whole Regulation, with exception to Sections 3 and 34.
„ VII., 1803 ...	A Regulation for the establishment of a Court of Circuit for the trial of persons charged with crimes, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	From Section 5 to Section 41, both inclusive.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation VIII., 1803	A Regulation for extending the jurisdiction of the Nizamut Adawlut to the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	The whole Regulation, with exception to Sections 6, 24, and 26.
„ XII., 1803 . .	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	Sections 12 and 14.
„ XX., 1803 .	A Regulation for the trial of persons charged with crimes against the State, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	The whole Regulation.
„ XXXV., 1803 ...	A Regulation for the establishment of an efficient system of Police in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	Section 3, Clauses 3, 4, and 5, and Section 10.
„ L., 1803 ...	A Regulation for extending, with modifications, to the Criminal Courts, the rule prescribed in Regulation IV., 1793, for procuring the attendance of witnesses and requiring oaths or solemn declaration from witnesses in the Civil Courts, and for explaining those rules in their application to particular forms of oath by the Courts, Civil and Criminal.	The whole Regulation.
„ LIII., 1803 ...	A Regulation for determining the punishment to be adjudged by the Criminal Courts of Judicature, in cases wherein a discretion is left by the Mahomedan law; for defining the crime and punishment of robbery by open violence; and for declaring what convicts shall be hereafter liable to transportation, or to banishment: as well as the punishment of such as may return from transportation, or escape from confinement, during the periods of their sentences.	Ditto.
„ III., 1804 ...	A Regulation for providing against resistance to the processes of the Zillah Criminal Courts and Police Officers, as well as for compelling the appearance of persons charged with acts of a Criminal nature, who may abscond, or otherwise evade the process issued against them; for rendering prosecutions instituted for the recovery of losses sustained by theft and robbery, cognizable in the Courts of Civil Judicature; and for ascertaining the responsibility in such cases of Tehseeldars of places held khaum, for amending certain parts of Regulation VI., 1803, for preventing the offence of dhurna, and for preventing the tribe of Raujeecmars killing or causing the death of their female children in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	Ditto.
„ IV., 1804 ...	A Regulation for the administration of justice in Criminal cases in the Zillah of Cuttack.	Proviso in Section 7.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation IX., 1804 ...	A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the division of the ceded Provinces; for the administration of justice in Criminal cases, in the conquered Provinces in the Doab, and on the right bank of the River Jumna, and in the Territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwa.	So much of the Regulation as extends the whole or any part of Regulations VI., VII., VIII., XX, XXXV., and LIII. of 1803, which are repealed by this Act, to the Districts mentioned in Sections 3 and 4; Sections 5 and 6; and the proviso in Section 11.
„ III., 1805 ...	A Regulation to make further provision for the exemplary punishment of robbery by open violence.	The whole Regulation.
„ VII., 1805 ...	A Regulation for extending to the conquered Provinces situated within the Doab and on the right bank of the River Jumna, and to the Territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizir to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section 14.
„ I., 1806 ...	A Regulation for abolishing the jurisdiction of Zillah Moorshedabad, and annexing the Mehals composing it to the jurisdictions of the City of Moorshedabad and Zillah Beerbhoom; for altering the jurisdiction of the Courts of Circuit and Provincial Courts of Appeal of the Divisions of Calcutta and Moorshedabad; for fixing the order of holding the half-yearly gaol deliveries in those Divisions, and in the Divisions of Benares and Bareilly; for rescinding such parts of the existing Regulations as restrict the senior Judges of the Courts of Circuit from proceeding upon the circuit in their respective Divisions; and for extending the authority of the Courts of Nizamut Adawlut and Sudder Dewanny Adawlut in certain cases.	Sections 6, 7, 8, and 9.
„ XII., 1806 ...	A Regulation for annexing the Pergunnahs of Sonk, Sonsa, and Sahar, situated on the right bank of the River Jumna, to the jurisdiction of the Zillah of Agra, and for extending to those Pergunnahs the Laws and Regulations established for the internal government of the ceded and conquered Provinces.	Section 3, in so far as it extends the parts of Regulation IX. of 1804 and Regulation VIII. of 1805, and the other Regulations therein referred which are repealed by this Act.
„ XV., 1806 ...	A Regulation for the amendment of certain parts of the provisions contained in Clauses 2 and 3, Section 2, Regulation II. 1796, and Clauses 2 and 3, Section 19, Regulation VI., 1803, and of the rule contained in Section 7, Regulation V., 1799.	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation II., 1807 ...	A Regulation to provide more effectually for the punishment of perjury, subornation of perjury, and forgery.	The whole Regulation.
„ IX., 1807 ...	A Regulation for explaining and amending the existing rules of Criminal process, and for defining in certain cases the powers and duties of the Police Officers, of the Zillah and City Magistrates and of their Assistants, of the Courts of Circuit, and of the Court of Nizamut Adawlut.	Ditto.
„ XIV., 1807...	A Regulation for amending the system of Police established in the Province of Benares and in the ceded and conquered Provinces within the Divisions of Bareilly and Benares; also for extending to those Provinces the provisions contained in Regulation XII., 1807, for the appointment of Ameens of Police.	Section 11, Clauses 7, 8, 9, 10, 11, and 12; Section 20; and Section 21.
„ VIII., 1808...	A Regulation for the more exemplary punishment of robbery by open violence; and for modifying the rules in force respecting trials referred to the Court of Nizamut Adawlut.	The whole Regulation.
„ I., 1810 ...	A Regulation for occasionally dispensing with the attendance and *futwa* of the Law Officers of the Courts of Circuit.	Ditto.
„ VI., 1810 ...	A Regulation for defining the penalties to which Zemindars and others shall be subject for neglecting to give due information of robberies, and for harbouring robbers.	Sections 3, 4, and 5.
„ XIV., 1810 ...	A Regulation for defining the powers of the Court of Nizamut Adawlut in cases of pardon and mitigation of punishment; and for declaring the competency of the Courts of Circuit to admit prisoners to bail, in certain cases, during a reference of their trials to the Nizamut Adawlut.	The whole Regulation.
„ I., 1811 ..	A Regulation for making more adequate provision for the punishment of persons found guilty of the offence of breaking into houses, tents, or boats; for subjecting to exemplary punishment, persons receiving or purchasing plundered or stolen property; and for granting licenses to gold or silversmiths, braziers, or coppersmith, ironsmiths, pawnbrokers, retail vendors of brass or copper-wares, and pykars or itinerant dealers in second-hand articles.	The whole Regulation, except so much of Section 10 as declares Landholders and others accountable for the early communication to the Magistrate of information respecting receivers of stolen goods.
„ VII., 1811 ...	A Regulation for limiting and better defining the powers of the Police darogahs, and of Zemindars invested with the charge of the Police, with respect to persons charged with or suspected of the commission of public crimes and offences.	The whole Regulation.
„ X., 1811 ...	A Regulation for preventing the importation of slaves from foreign countries, and the sale of such slaves in the territories immediately dependent on the Presidency of Fort William.	Section 3.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XIV., 1811	A Regulation for amending the provisions of the existing Regulations respecting the punishment of Criminals by transportation, and for modifying the rules in force regarding the Offices of Judge and Magistrate of the 24-Pergunnahs.	The whole Regulation.
„ III., 1812 ...	A Regulation for amending some of the Rules at present in force in regard to the conduct of enquiries into charges of a Criminal nature, and for establishing additional provisions with a view to the more effectual apprehension of Criminals.	Sections 2 and 3, so much of Section 4 as provides a punishment for the offence mentioned in the Section; Section 6, and Section 12.
„ VII., 1813 ...	A Regulation for extending to the ceded and conquered Provinces the provisions contained in Regulation III., 1801, and in Section 13, Regulation VII., 1794, and for rescinding parts of Sections 11 and 15, Regulation I., 1803.	Section 3.
„ IX., 1813 ...	A Regulation for restoring the punishment of transportation.	The whole Regulation.
„ VIII., 1814 ...	A Regulation for extending the provison contained in Clause 2, Section 4, Regulation III., 1812, to cases of murder, arson, and theft.	So much of Section 2 as provides a punishment for the offence mentioned in the Section.
„ XI., 1814 ...	A Regulation to make further provision for the punishment of persons convicted of breaking into, or attempting to break into, houses, tents, boats, or other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal.	The whole Regulation.
„ XV., 1814 ...	A Regulation to define the punishment to which persons convicted of two or more offences shall, in certain cases, be subject.	Ditto.
„ XVI., 1816 ...	A Regulation to provide more effectually for the management of the public Jails; and to enable the Magistrates to maintain good order and discipline in those Jails; as well as among the prisoners employed on the public roads or other public works. Also to place the Jail at Alipore in the vicinity of Calcutta, under the inspection and control of the Court of Nizamut Adawlut; and to provide for the transportation of convicts to the Island of Mauritius or its immediate dependencies.	Sections 9 and 15.
„ XVII., 1816 ...	A Regulation for the occasional revision of the regular Police and Jail establishments, for the due support and regulation of the establishments of Chowkeedars, for amending the Rules in force for the appointment and removal of Police Officers, for modifying the Constitution of the Officers of the Superintendents of Police, and for reducing the miscellaneous business of Courts of Circuit, and Court of Nizamut Adawlut	Section 8, Clauses 3 and 4.
„ XVII., 1817 ...	A Regulation to provide for the more effectual administration of Criminal Justice in certain cases.	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XX., 1817 ...	A Regulation for reducing into one Regulation, with amendments and modifications, the several Rules which have been passed for the guidance of Darogahs and other subordinate Officers of Police; for modifying the existing Rules concerning the resistance or evasion of Criminal process, and for requiring further aid to the Police in certain cases, from proprietors and farmers of land and their local managers, as well as from the munduls and other heads of villages.	Clauses 3 and 4 of Section 6, Clauses 5, 6, and 7 of Section 8, Sections 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, and 26.
„ VI., 1818 ...	A Regulation for providing against the protracted confinement of persons charged with Criminal offences, during the examination of such charges before the Magistrates; and for defining the powers of the Courts of Circuit at the Sudder Stations of those Courts with respect to persons committed or held to bail by the Magistrates for trial at the periodical Sessions of gaol delivery.	The whole Regulation.
„ VIII., 1818 ...	A Regulation for rescinding part of Clause 6, Section 2, Regulation LIII., 1803, for modifying some of the existing rules relating to the requisition of security for good behaviour; and for providing for a revision of the cases of certain classes of prisoners detained in confinement, on failure to furnish security for their good behaviour and appearance.	Ditto.
„ XII., 1818 ...	A Regulation for extending the powers of the Magistrates and Joint Magistrates in the trial of persons charged with breaking into houses and other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal; or charged with theft, or with buying or receiving stolen property, knowing the same to have been stolen, or charged with escape from gaol or other place of confinement.	Ditto.
„ III., 1819 ...	A Regulation for extending the provisions of Section 10, Regulation VIII., 1818, to robbers not being dacoits or gang robbers.	Ditto.
„ VII., 1819 ...	A Regulation for declaring certain misdemeanors punishable by the Magistrates, and for defining the punishment to be adjudged in such cases.	Ditto.
„ IV., 1820 ...	A Regulation for declaring the power of the Magistrates to give effect to Military sentences in certain cases; for providing for the more efficient exercise of the control of the Courts of Circuit over the sentences of the Magistrates in certain cases; and for amending Clause 2, Section 3, Regulation XII., 1818.	Ditto.
„ VII., 1820 ...	A Regulation for altering the punishment and form of trial in cases of dhurna.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation III., 1821 ...	A Regulation for extending, in special cases, the powers of Assistants to the Magistrates, for empowering the Hindoo and Mahomedan Law Officers of the Zillah and City Courts and Sudder Ameens to try and determine petty thefts and other Criminal cases of a trivial nature, when referred to them by a Magistrate; for limiting the period of appeal in Foujdaree cases; for rescinding parts of Sections 12 and 17, Regulation XXII., 1816; for modifying some of the rules in force relative to the rate and collection of the assessment levied for the maintenance of Chowkeedars of Police; and for vesting the Magistrates with certain powers in regard to persons travelling through or assembling within their jurisdictions under suspicious circumstances.	The whole Regulation.
„ I., 1822 ...	A Regulation for amending Regulation XLIX., 1793, Regulation XXXII., 1803, and Regulatiou V., 1809.	Ditto.
„ IV., 1822 ...	A Regulation to provide for the more effectual administration of Criminal justice in certain cases.	Ditto.
„ VIII., 1822 ...	A Regulation to declare that persons charged with crimes and misdemeanors must ordinarily be brought to trial at the Foujdaree Court or Sessions of the District in which such crimes or misdemeanors may be perpetrated; and to vest the Governor-General in Council and Nizamut Adawlut with a discretionary power as to the place of trial.	Ditto.
„ II., 1823 ...	A Regulation for the more effectual suppression of affrays.	Ditto.
„ IV., 1823 ...	A Regulation for declaring the intent of Section 14, Regulation VII., 1794, and for prohibiting the Judges of Circuit, holding the gaol deliveries, from trying any case in which the prisoner or prisoners may have been committed for trial by themselves in the capacity of Superintendent of Police, Magistrate, Joint-Magistrate, or Assistant Magistrate; for modifying the third and fourth Clauses of Section 2, Regulation XIV., 1811, and for rescinding Sections 4 and 5, Regulation XXIV., 1814, and Sections 2 and 4, Regulation XXV., 1814.	Ditto.
" VI., 1824. ...	A Regulation for defining the course of proceeding to be pursued by the Magistrates with respect to individuals charged before them with two or more offences in certain cases; for modifying Clause 2, Section 2 and for amending certain other provisions of Regulation XII., 1818.	Ditto.
„ X., 1824 ...	A Regulation for modifying and amending the rules at present in force in regard to the pardon of persons charged with or suspected of Criminal offences.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation I., 1825 ...	A Regulation for declaring the Judicial Officers competent to superintend the execution of their own process in certain cases; and for extending to Officers entrusted with the execution of a Magistrate's warrant, or other Criminal process, the powers vested in Police Officers by certain provisions in Regulation XX., 1817.	The whole Regulation.
„ IV., 1825 ...	A Regulation for declaring the Magistrate and Criminal Courts empowered to require recognizances and security for keeping the peace in certain cases; and for explaining some of the provisions contained in Regulation VIII., 1818, relative to security for good behaviour.	Ditto.
„ XII., 1825 ...	A Regulation for defining the powers of the Courts of Circuit and of the Nizamut Adawlut in certain cases; for the uniform punishment of contempts of Court in any of the Courts of Judicature, Civil or Criminal; for exempting females from corporal punishment by stripes; and for discontinuing the corah as an instrument of punishment in all cases.	Ditto.
„ XVI., 1825 ...	A Regulation to make further provision for empowering the Courts of Circuit to pass sentence in certain cases of robbery without reference to the Court of Nizamut Adawlut.	Ditto.
„ I., 1828 ...	A Regulation for empowering the Governor-General in Council to commute sentences of imprisonment for life in the Alipore Jail to transportation for life to any of the British Settlements in Asia in certain cases.	Ditto.
„ VI., 1828 ...	A Regulation to explain the intent and meaning of certain parts of Regulation II., 1823.	Ditto.
„ VIII., 1828 ...	A Regulation for enlarging the powers of the Magistrates with regard to the offence of affrays.	Ditto.
„ VI., 1829 ...	A Regulation for extending the powers of the Magistrates and Joint-Magistrates in certain cases of theft.	Ditto.
„ VII., 1829 ...	A Regulation for rescinding such parts of the existing Regulations as prescribe forms for periodical Reports, Calendars, Registers, or other statements to be furnished by the Civil or Criminal Authorities, and require the same to be forwarded at periods specified, and declaratory of the power to prescribe the forms of such statements vested in the Courts of Sudder Dewanny and Nizamut Adawlut, by Regulation X., 1796, Section 3, and Regulation XX., 1803, Section 3.	Ditto.
„ XII., 1829 ...	A Regulation for modifying the provision of Regulation XII., 1825.	Ditto.
„ XVII., 1829 ...	A Regulation for declaring the practice of Suttee, or of burning or burying alive the widows of Hindoos, illegal and punishable by the Criminal Courts.	Sections 4 and 5.

Reference to Regulation.	Title of Regulation or Act.	Extent of Repeal.
Regulation IV., 1830 ...	A Regulation to explain the intent and meaning of Clause 4, Section 3, Regulation I., 1829.	The whole Regulation.
" VIII., 1830 ...	A Regulation for modifying the existing rules relative to the enquiry by Magistrates and Joint-Magistrates into charges of a Criminal nature.	Ditto.
" VI., 1831 ...	A Regulation for the appointment of one or more Judges, to be ordinarily stationed at Allahabad, for the purpose of exercising the powers and authority of the Sudder Dewanny and Nizamut Adawlut within the Province of Benares, the ceded and conquered Provinces, including the Districts of Meerut, Saharunpore, Mozuffernuggur and Boolundshuhur, which are now subject to the Chief Commissioner at Delhi, and the powers and authority of the Nizamut Adawlut in the Province of Kumaon and the Saugor and Nerbudda Territories.	Sections 12 and 13.
" VII., 1831 ...	A Regulation for enabling the Governor-General in Council to afford relief to the Commissioners of Circuit by vesting the Zillah and City Judges, not being Magistrates, with powers to hold monthly gaol deliveries within their respective jurisdictions (whenever that measure may be deemed advisable,) and for defining the powers and duties of the Judges or other Officers, not being in charge of the Office of Commissioner, who may be appointed to hold any gaol delivery while so employed.	Sections 5 and 6, and so much of Section 7 as relates to Sessions Judge.
" IX., 1831 ...	A Regulation for the more speedy and efficient administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut.	Sections 3 and 4.
" II., 1832 ...	A Regulation for the better administration of Criminal justice and the Police in certain cases.	Sections 2 and 3.
" III., 1832 ...	A Regulation for extending the provisions of Regulation X., 1811.	Clause 2 of Section 2.
" VI., 1832 ...	A Regulation for enabling European functionaries to avail themselves of the assistance of respectable natives in the administration of Civil or Criminal justice, and for modifying or dispensing with futwas by Mahomedan Law Officers in certain trials.	Sections 4, 5, and 6.
" II., 1834 ...	A Regulation for abolishing corporal punishment; for substituting a fine in certain cases for a sentence of labour; and for the gradual introduction of a better system of prison discipline.	The whole Regulation, except Section 7.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	MADRAS.	
Regulation III., 1802...	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several Zillahs immediately subject to the Presidency of Fort St. George.	Section 8.
„ IV., 1802 ...	A Regulation for establishing four Provincial Courts of Appeal, for hearing appeals from decisions passed in the several Zillah Courts; and defining their powers and duties, and prescribing rules for receiving and deciding upon appeals and other causes of which they are declared to have cognizance.	Section 20.
„ VII., 1802 ...	A Regulation for the establishment of the Courts of Circuit for the trial of persons charged with crimes.	The whole Regulation.
„ VIII., 1802...	A Regulation for establishing a Foujdary Adawlut or Chief Criminal Court for the trial of Criminal cases in the last resort.	Sections 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 23, 24, and 25.
„ XI., 1802 ...	A Regulation for the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature.	Section 8.
„ XII., 1802 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature.	Sections 12, 13, and 14.
„ XV., 1803 ...	A Regulation for determining the punishment to be adjudged by the Criminal Courts of Judicature in cases wherein a discretion is left by the Mahomedan law, for defining the crime and punishment of robbery by open violence, and for declaring what convicts shall be hereafter liable to transportation, or to banishment, as well as the punishment of such as may return from transportation, or escape from confinement during the period of their sentences.	The whole Regulation.
„ I., 1810 ...	A Regulation for providing against resistance to the processes of the Zillah Criminal Courts, as well as for compelling the appearance of persons charged with acts of a Criminal nature who may abscond or otherwise evade the process issued against them; for extending and explaining the rules contained in Section 23, Regulation VI., 1802, and in Section 23, Regulation VIII., 1802, and for putting a stop to the practice of parties in Civil suits preferring unfounded accusations of perjury against the witnesses in such suits, and unfounded charges of subornation of perjury against the adverse parties in such suits.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation VI., 1811 ...	A Regulation to provide more effectually for the punishment of perjury, subornation of perjury, and forgery, and to alter the provisions in force for the payment of a fixed reward on the conviction of public offenders.	The whole Regulation.
„ VI., 1816 ...	A Regulation for reducing into one Regulation the Rules which have been passed regarding the Office of Native Commissioners, for modifying and extending their powers in the trial and decision of Civil suits, and for authorizing them under the designation of District Moonsiffs, to discharge certain additional duties.	Section 49.
„ IX., 1816 ...	A Regulation for reducing into one Regulation certain Rules which have been passed regarding the Office of the Zillah Magistrate, for modifying and defining his powers, and for transferring the Office of Zillah Magistrate from the Judge to the Collector of the Zillah.	The whole Regulation, except Sections 2, 3, 4, 5, and 43, and Nos. 1 and 2 of Appendix.
„ X., 1816 ...	A Regulation for constituting the Judges of the Courts of Adawlut of the several Zillahs, Criminal Judges of their respective Zillahs, and for defining their powers.	The whole Regulation, except Section 40 and Appendix.
„ XI., 1816 ...	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.	The whole Regulation, except Sections 8. 9, 10, 12, 13, 14, and 47 *
„ III., 1817 ...	A Regulation for explaining and modifying certain provisions of Regulations IX., X., and XI., 1816.	Section 2.
„ I., 1818 ...	A Regulation to provide for the more effectual administration of Criminal justice in certain cases, and to alter certain provisions of the Regulations in force.	The whole Regulation.
„ III., 1819 ...	A Regulation to provide more effectually for the punishment of extortion. oppression, or other abuse of authority on the part of Native Officers of Police.	Ditto.
„ V., 1819 ...	A Regulation for rescinding such parts of Regulations IX , X., and XI., 1816; as disqualify servants of the Government from attesting confessions.	Ditto.
„ IV., 1821 ...	A Regulation for giving greater efficiency to the system of Police established in the Provinces subordinate to the Presidency of Fort St. George.	The whole Regulation, except Section 6.
„ II., 1822 ...	A Regulation to provide for the more effectual adminstration of Criminal justice in certain cases, and to alter certain provisions of the Regulations now in force.	The whole Regulation.

The figures and words XI. Clause are to be substituted for the figure 12 above. See Act XXXVI., 1867.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation VI., 1822 ..	A Regulation for extending the powers of the Criminal Judges and of the Courts of Circuit in the trial of persons charged with breaking into houses and other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal, or charged with theft, or with buying or receiving stolen property knowing the same to have been stolen, or charged with escape from gaol or other place of confinement.	The whole Regulation.
„ I., 1824 ..	A Regulation for extending to the Criminal Courts the rules prescribed in Section 7, Regulation III., 1802, for procuring the attendance and evidence of witnesses.	Ditto.
„ I., 1825 ...	A Regulation to rescind Regulation I., 1822, and to alter certain other provisions of the Regulations in force, and to provide for the more prompt and effectual administration of Criminal Justice in certain cases.	Ditto.
„ III., 1826 ...	A Regulation for the more easy conviction of the crime of perjury in certain cases.	Ditto.
„ II., 1827 ...	A Regulation for constituting the Assistant Judges appointed under Regulation I., 1827, Joint Criminal Judges of the Zillahs in which they may be stationed, and of defining the extent to which the powers of Magistrate shall be exercised by subordinate Collector.	Section 3.
„ III., 1827 ...	A Regulation for empowering the Governor in Council in certain cases to direct that persons charged with crimes or misdemeanors shall be sent for trial or committal to another Court than that within the jurisdiction of which the offences charged were committed.	The whole Regulation.
„ VI., 1827 ...	A Regulation for explaining the provisions of Clause 1, Section 5, Regulation XV., 1803, and Clause 4, Section 3, Regulation VI., 1822; for making further provisions against the offence of counterfeiting Coin; for declaring Magistrates empowered to take recognizances and security for keeping the peace in certain cases; for enlarging the power granted to Magistrates by Clause 1, Section 3, Regulation II. 1822; for modifying and amending the Rules in force relating to the requisition of security for good behaviour; and for subjecting to compulsory labor persons unable to find the security required.	Ditto.
„ VIII., 1827 ...	A Regulation for granting to Native Judges jurisdiction in Criminal cases.	So much of Section 4 as provides for Native Judges being guided by Regulation X., 1816, Section 5, 7, 8, 10, 11, 12, 13, and Clauses 3 and 4 of Section 16.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation X., 1827 ..	A Regulation for the gradual introduction of trial by Jury into the Criminal Judicature of the Territories subject to the Presidency of Fort St. George.	The whole Regulation.
„ VIII., 1828 ...	A Regulation for abolishing the use of the rattan as an instrument of punishment, and for substituting, in lieu thereof, the cat-o'-nine-tails.	Ditto.
„ IX., 1828 ...	A Regulation for rescinding such parts of the existing Regulations as prescribe forms for Periodical Reports, Calendars, Registers, or other Statements to be furnished by the Civil or Criminal Courts, and require the same to be forwarded at periods specified.	Ditto.
„ VI., 1829 ...	A Regulation for modifying the enactments contained in Section 8, Regulation I., 1825.	Ditto.
„ VI., 1829 .	A Regulation for the punishment of the fraudulent appropriation or the unlawful and malicious obliteration or destruction of Judicial Records, and for defining the course of proceeding to be observed in bringing to trial persons charged with perjury or subornation of perjury before certain tribunals.	Ditto.
„ II., 1830 ...	A Regulation for abolishing the use of the corah as an instrument of punishment, and substituting, in lieu thereof, the cat-o'-nine-tails.	Ditto.
„ II., 1831 ..	A Regulation for modifying the provisions contained in Regulation VIII., 1827, which require that persons committed for trial before the Court of Circuit by a Native Criminal Judge, shall be sent to the Criminal Judge, or the Joint Criminal Judge of the Zillah, in order to their being tried by the Court of Circuit.	Ditto.
„ III., 1831 ...	A Regulation to provide for the more effectual admistration of justice in certain cases.	Ditto.
„ VIII., 1831 ...	A Regulation for vesting in single Judges of the Courts of Sudder and Foujdary Adawlut, and in single Judges of the Provincial Courts of Appeal, under certain restrictions, the power now exercised by two or more Judges of those Courts respectively.	Section 5.
„ VIII., 1832 ..	A Regulation for rescinding Clause 2, Sections 7 and 8, Regulation IV., 1821.	Ditto.
„ IX., 1832 .	A Regulation for the punishment of false accusations preferred to a Head of District Police, or Police Officer vested with the powers of a Head of District Police.	Ditto.
„ XIII., 1832 ..	A Regulation to provide for the more effectual administration of Criminal justice in certain cases.	Ditto.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation II., 1833 ...	A Regulation for exempting females from corporal punishment by stripes.	Ditto.
„ III., 1833 ..	A Regulation for conferring upon Sudder Ameens jurisdiction in Criminal cases, and for extending the Civil jurisdiction of Registers, Sudder Ameens, and District Moonsiffs.	Section 2.
„ I., 1834 ..	A Regulation for the punishment of persons convicted of treason or rebellion.	The whole Regulation.
	BOMBAY.	
Regulation II., 1827 .	A Regulation for defining the constitution of Courts of Civil justice and the powers and duties of the Judges and Officers thereof.	Section 3.
„ IV., 1827 ...	A Regulation prescribing the forms of proceeding of the Courts of Law in Civil suits and appeals, and rules for the trial of the same.	Clause 4, Section 34, also Section 52, and Sections 54 and 55.
„ XI., 1827 ...	A Regulation for defining the persons subject to the operation of the Regulations on Criminal Judicature, under what circumstances foreigners may be given up to the Government to which they belong, and under what circumstances Government may exercise a control over the residence and persons of emigrants and their descendants.	The whole Regulation.
„ XII., 1827...	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police Authorities and servants.	The whole Regulation, with the following exceptions: Section 1, in as far as it applies to the Zillah Magistrate; Clause 1 of Section 3, in as far as it relates to the Police functions of the Zillah Magistrate; Clause 2 of Section 3; Clause 5 of the same Section, in as far as it extends to the Zillah Magistrate; Section 4, in as far as it extends to Assistant Collectors in charge; Section 6; Clause 4 of Section 10; Clause 1 of Section 13, in as far as it regulates the endorsement and record of warrants issued by Magistrates; Clauses 1, 6, 7, and 8 of Section 19; Section 20; Clauses 1 of Section 22, in as far as it relates to the superintendence of Village Police; Clause 2 of Section 27; Section 30; Clause 4 of Section 31; Sections 37 and 40; and Chapter VI.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XIII., 1827...	A Regulation for defining the constitution of Courts of Criminal justice, and the functions and proceedings thereof.	Sections 4, 5, 6, 10, 11, 12, and 13; Chapters III. and IV.; Sections 29 and 30; Clauses 1 and 2, Section 31, Clause 3 of Section 33, and the whole of Chapter VI., except Clause 3 of Section 34, in as far as it authorizes the occasional substitution of a letter for a summons, and except Clause 9 of the same Section, Clause 2 of Section 36, and Clauses 1 and 2 of Section 33.
„ XIV., 1827 ..	A Regulation for defining crimes and offences, and specifying the punishments to be inflicted for the same.	The whole Regulation, except Clause 2 of Section 3, and Sections 20 and 23.
„ XV., 1827...	A Regulation containing rules under which land-holders may be invested with Police authority within their respective lands, or other convenient limits, and deprived of the same; and declaring the mode of procedure to be followed in regard to them in Criminal matters.	The whole Regulation.
„ XXIII., 1827...	A Regulation imposing certain restrictions on money transactions between persons filling certain Civil Offices and others, and on the employment of individuals with whom they may have such transactions by the said Officers in official capacities: on the possession of landed property by Europeans and Americans, and on the general use of Uniforms and Badges.	Ditto.
„ XXX., 1827 ...	A Regulation enacting certain modifications of Regulations XII., XIII., XIV., and XV., of 1827, with reference to the Zillahs of Poona and Ahmednuggur.	Ditto.
„ XVII., 1828 ...	A Regulation to provide for the punishment of the crime of conspiracy.	Ditto.
„ III., 1830 ...	A Regulation rescinding Regulations VIII. and XII. of 1828, and vesting the Criminal Judges with the powers and functions of Sessions Judges.	The whole Regulation, except Sections 2, 4, 6, and 7.
„ IV., 1830 ...	A Regulation rescinding such parts of Regulation XII. of 1827, as vest the Criminal Judge with Police jurisdiction of the Magistrate and his Assistants.	The whole Regulation, except Clause 1 of Section 1, and Section 2.
„ XVI., 1830 ...	A Regulation to rescind that part of Clause 2, Section 26, Regulation XIV., 1827, which exempts persons assisting at rites of self-immolation from the penalty of murder; and declaring the punishments to which persons shall be liable who may assist or use force or violence in the commission of such acts.	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Regulation XIX., 1830	A Regulation providing for the appointment of a Joint Sessions Judge within the Zillah of Poona.	The whole Regulation.
„ V., 1831 ...	A Regulation for making persons effecting an escape from custody, unaccompanied by force, liable to the penalties prescribed in Regulation XIV., Section 24, 1827.	Ditto.
„ VIII., 1831 ...	A Regulation for modifying the jurisdiction of Sessions Judges and Judicial Commissioners.	The whole Regulation, except Section 1.
„ IX., 1831 ...	A Regulation for modifying the rules under which land-holders may be invested with Police jurisdiction.	The whole Regulation.
„ III., 1833 ...	A Regulation for the more efficient administration of Police in certain large Towns situated in the Zillahs subordinate to Bombay.	Ditto.
„ VII., 1833...	A Regulation for modifying the provisions in force for the trial and punishment of persons exceeding twelve in number assembling for riotous or rebellious purposes, not amounting to treason; and for defining the tribunal before which persons committing offences under the designation of unlawful attempts to alter the established laws, or disturbing the peace of Foreign States, may be tried.	The whole Regulation.
„ VIII., 1833...	A Regulation for modifying Section 9, of Regulation III., 1830, and introducing a more suitable arrangement for the performance of the annual Circuit by the Judicial Commissioners.	Ditto.

ACT No. XVIII. OF 1862.

1. An indictment may be amended on the trial, if person indicted be not prejudiced thereby; after which the trial may be postponed, or proceeded with before the same or another jury.
2. If, on a trial for criminal breach of trust or for cheating, the evidence shall prove theft, the indictment may be amended.
3. An indictment may be amended, if, on a trial for criminal breach of trust as a clerk or servant, the evidence shall prove theft, or theft as a clerk or servant.
4. Also, if, on a trial for theft, or theft in a building, tent, or vessel, the evidence shall prove dishonest misappropriation of property, or criminal breach of trust.
5. Also, if, on a trial for theft as a clerk or servant, the evidence shall prove dishonest misappropriation of property, or criminal breach of trust.
6. Verdicts and judgments given after amendment to be valid.
7. Records to be drawn up in the amended form of the indictment, without taking notice of the amendment.
8. In indictments for theft, it is sufficient to prove the moving of the property in order to take it dishonestly.
9. In indictments for murder and culpable homicide, it is not necessary to state the means by which death was caused.
10. In indictments for murder, or for abetting or attempting to murder, what averments shall be sufficient.
11. Persons indicted for murder may be acquitted of murder, and convicted of culpable homicide not amounting to murder.
12. Upon an indictment for the murder of a child, jury may find a verdict of concealing or endeavouring to conceal the birth.
13. Indictments for grievous hurt need not specify the kind of grievous hurt.
14. On indictments for hurt or doing rash acts likely to endanger life, accused not entitled to acquittal on the ground of having caused death or being guilty of culpable homicide.
15. Documents referred to in indictments may be described by their general designation, without being set forth in full.
16. Where intent to defraud must be alleged, intent to defraud a particular person need not be alleged or proved.
17. Person charged with an offence, may be convicted of an attempt to commit it.
18. Person indicted for criminal misappropriation, not entitled to acquittal if convicted of theft.

19. Persons indicted for jointly receiving stolen property, may be convicted of separately receiving it.
20. The abettor may be tried as for a substantive offence, either jointly with the principal offender or separately, if the offence itself has been committed.
21 The receiver of stolen property may be indicted and punished, notwithstanding the non conviction or absence of the principal offender
22 An indictment may be for several offences in different counts, but the Judge may direct a separate trial on any of those counts
23 On a trial for theft, if the property be taken at more than three different times, or at intervals of more than six months between the first and last taking, prosecutor to elect to proceed for not more than three takings all within the said period
24 In indictments for giving or using false evidence, it is sufficient to set forth the substance of the offence, without setting out any proceeding, or the authority of the Court before which the offence was committed
25 Coin and Bank or Government Notes may be described simply as money, and the particular species of coin, and amount and number of notes, need not be proved.
26 Absence of circumstances bringing the case within the general exceptions under the Penal Code need not be alleged, but proof of their non existence may be given by prosecutor, if accused give evidence of their existence
27 In indictments for defamation where defence is made under certain exceptions to Section 499 of the Penal Code, good faith to be presumed
28 Words used in describing offences to be taken in the sense of the Penal Code
29 Persons accused of murder or culpable homicide, may be tried by the Supreme Courts, if the death took place within the local limits, or the act causing death be committed wholly or in part within such limits
30 If an offence be commenced or completed within the local limits of any Supreme Court, the accused may be tried by such Court
31 Person accused may be tried by the Supreme Court within whose local limits either the act causing the offence was done, or the consequence of the act ensued
32 Person accused of receiving stolen property may be tried by the Court within whose local limits any part of such offence shall have been committed, or any part of the property shall have been received
33 Person accused of dishonestly concealing or removing property, may be tried by the Court within or from whose local limits such property shall have been concealed or removed
34 If an act be committed, or the consequence of an act ensue, on or near the boundaries of the local jurisdiction, it shall be deemed to have been committed or to have ensued within the local limits.
35 Person accused of an offence committed on a journey or voyage, may be tried by the Supreme Court within whose local limits part of such journey or voyage shall have been performed
36 Person escaping from lawful custody under sentence, or violating any condition of a remission of punishment or of a license to be at large, may be tried by the Supreme Court within or from whose local limits he shall have been apprehended or escaped, or by which he was formerly tried
37 Person liable to tried by any Supreme Court under this Act, may be dealt with by any Justice of the Peace
38 Former conviction or acquittal before a competent Court to be a bar to any subsequent trial or conviction
39 Sections 10, 12, 13, 14, 15, 16, 18 and 23 of 9th, Geo IV, c 74, to include any offence punishable under the Penal Code, Section 5 to include murder and culpable homicide, and Section 110 to include offences by which the possession of property is transferred
40 No indictment to be held insufficient for immaterial errors
41 A demurrer or motion to quash an indictment for uncertainty or any formal defect, must be made before the Jury are sworn, whereupon the indictment may be amended and the trial proceeded with.
42 Person accused not entitled to have the trial postponed, but Court may, on sufficient ground, adjourn the trial
43 Sufficient to state prior conviction or acquittal, in making a plea of *autrefois* convict or *autrefois* acquit
44 Charge of adultery to be instituted only by the husband
45. Charge of enticing away a married woman not to be instituted, except by the husband or the person in charge of the woman
46 Indictments under two preceding Sections to be quashed, if it be not proved that the charge was instituted by the husband or person in charge of the woman
47—52 Repealed by Act XII of 1865
53 Persons confined in the House of Correction at the date of the passing of this Act to remain in the custody of the officer in charge and of the keeper, who are to be responsible for them.
54 Act to commence in the Supreme Court of Calcutta from the date of passing.
55 Act to commence in the Supreme Courts of Madras and Bombay from the time of its extension to those Courts, respectively, by the Governments of Fort St George and Bombay
56 Except as to offences not punishable under the Penal Code, Act XVI. of 1852 repealed from the time of this Act taking effect in any of the Supreme Courts.
57. Interpretation and construction of Act.

An Act to repeal Act XVI. of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI. of 1852 *(for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company)* have become inapplicable and others require amendment, and it is expedient to repeal the said Act, and, pending the preparation of a Code of Criminal Procedure for Her

Majesty's Supreme Courts of Judicature, to re-enact some of the provisions of the said Act, and to make further provision for the administration of Criminal Justice in such Courts; It is enacted as follows:

An indictment may be amende on the trial, if the accused be not prejudiced thereby.

I. Whenever, on the trial of an indictment for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury, as such Court shall think reasonable; and after any such amendment, the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences both with respect to the liabiltity of witnesses to be indicted for giving false evidence and otherwise, as if no such variance had occurred: Provided that in any such case, where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the person indicted and his surety or sureties (if any), in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute, or give evidence, at the time and place to which such trial shall be so postponed: Provided, also, that, where any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

On trial for criminal breach of trust and other offences, if the offence proved be theft, the Court may order indictment to be amended.

II. If, upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the said Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper, under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

So also, on trials for criminal breach of trust as a clerk or servant.

III. If, upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under

Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

And on trials for theft or of theft in a building, tent, or vessel.

IV. If, upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, evidence shall be given to prove that, in respect of the property stated in the indictment, such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Similar power of amendment in trials for theft as a clerk or servant.

V. If, upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest missappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Verdicts and judgments valid after amendments.

VI. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is after such amendment shall have been made.

Records to be drawn up in amended form, without noticing the amendments.

VII. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is after such amendment shall have been made, without taking any notice of the fact of such amendment having been made.

What shall be sufficient proof of taking in cases of theft.

VIII. In an indictment for theft, the person indicted may be charged with having dishonestly taken the property stated in the indictment out of the possession of the person mentioned therein without that person's consent, and in support of such allegation it shall be sufficient to prove that the person indicted, intending to take dishonestly such property out of the possession of the person mentioned in the indictment, without that person's consent, moved that property in order to such taking.

The means by which the injury was inflicted need not be specified in indictments for murder and for culpable homicide.

IX. In an indictment for murder or culpable homicide not amounting to murder, or for abetting murder or culpable homicide not amounting to murder, or for attempting to commit murder, which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused or attempted to be caused.

Form of the indictment in cases of murder.

X. In an indictment for murder, it shall be sufficient to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being, and committing such act without any excuse for incurring the risk of causing death or such injury as aforesaid; and in any indictment for abetting murder, or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased, or attempted to murder the deceased, as the case may be.

On a trial for murder, Jury may find the accused guilty of culpable homicide.

XI. Upon an indictment for murder, the Jury may find the person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder.

On a trial for murder of a child, Jury may find the accused guilty of concealing or of endeavouring to conceal, the birth of a child.

XII. Upon an indictment for the murder of a child, the Jury may find the person indicted not guilty of murder, but guilty of intentionally concealing, or endeavouring to conceal, the birth of such child under Section 318 of the Indian Penal Code, and the person so found guilty shall be liable to be punished under the said Section of the said Code.

Not necessary to specify the particular kind of grievous hurt.

XIII. It shall not be necessary, in an indictment for voluntarily causing grievous hurt, to specify the particular kind of grievous hurt.

Provision for cases of trial for causing grievous hurt and other similar offences.

XIV. Upon an indictment for voluntarily causing grievous hurt, or for voluntarily causing hurt to any person, or for an offence under Section 336, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured, or that the person indicted was guilty of culpable homicide.

How documents may be referred to in indictments.

XV. In an indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same or the value thereof.

Intent to defraud a particular person need not be alleged or proved.

XVI. In an indictment in which it shall be necessary to allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud.

XVII. If, on the trial of any person charged with any offence, it

Person charged with an offence may be convicted of an attempt to commit it.

shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence charged in the indictment, and no person so tried as herein lastly mentioned, shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

Person indicted for criminal mis-appropriation, may be convicted of theft.

XVIII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

Persons accused of jointly receiving, may be convicted of separately receiving.

XIX. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

An abettor may be indicted in the absence of the principal.

XX. A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment, notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself, either in the place in which he is guilty of the abetment, or in the place in which any act shall have been committed in pursuance of the abetment.

A receiver of stolen property may be indicted in the absence of the principal.

XXI. A person may be indicted and punished for dishonestly receiving or retaining stolen property, notwithstanding the person by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property or committed criminal breach of trust in respect thereof, shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

Several counts may be inserted in one indictment against the same person.

XXII. It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge, before whom the person indicted shall be tried, may direct that any one or more of the counts shall be treated as a distinct indictment

or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

If the property appear to have been taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XXIII. If, upon the trial of an indictment for theft, it shall appear that the property alleged in the indictment was taken or moved at different times, the prosecutor shall not by reason thereof be required to elect upon which taking or moving he will proceed, unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings or movings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such mumber of takings or movings, not exceeding three, as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

Form of the indictment for giving or fabricating false evidence, &c.

XXIV. In an indictment for giving or fabricating false evidence, or for using or attempting to use false or fabricated evidence or for any offence which by the Indian Penal Code is declared to be punishable in the same manner as the offence of intentionally giving false evidence, or for abetting or attempting to commit any of the offences aforesaid, it shall be sufficient to set forth the substance of the offence charged, without setting out any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Coin and Bank or Government Notes may be described simply as money.

XXV. In an indictment in which it shall be necessary to make any averment as to any money, or any note of any Bank, or any note of Government payable on demand, or which by any law is or shall be declared to be a legal tender, it shall be sufficient to describe such money or note simply as money, without specifying any particular coin or Bank or other note, and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any such note as aforesaid, although the particular species of coin of which such amount was composed, or the amount, number, or other particulars of the note, shall not be proved; and, in cases of obtaining money or any such note or notes as aforesaid by cheating, by proof that the offender obtained any piece or pieces of coin, or any such note or notes, or any portion thereof, or of the value thereof, by cheating, although such piece or pieces of coin or note or notes may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person or persons, and such part shall have been returned accordingly.

Absence of general exceptions under the Penal Code to be assumed.

XXVI. It shall not be necessary to allege in an indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the general exceptions contained in Chapter IV. of the Indian Penal Code, or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499, of the said Code, but every charge shall be under-

stood to assume the absence of all such circumstances; and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to general exception.

XXVII. In proving the existence of circumstances as a defence, under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th, or 10th exception to Section 499 of the Indian Penal Code, good faith shall be presumed, unless the contrary appear.

Good faith to be presumed in certain cases.

XXVIII. In every indictment, words used in describing an offence, shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Words in indictments to be taken in the sense of the Penal Code.

XXIX. Any person accused of murder, or of culpable homicide not amounting to murder, may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits, in the same manner as if both the act had been committed and the death had taken place within such local limits.

Jurisdiction in cases of murder or culpable homicide, if the act which caused the death, or the death itself, took place within the local limits.

XXX. Any person accused of an offence may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence shall have been either commenced or completed within the local limits, of the jurisdiction of such Court, in the same manner as if the offence had been wholly and entirely committed within such local limits.

Supreme Court may deal with offence commenced or completed within its local jurisdiction.

XXXI. Whenever the offence of which any person shall be accused shall consist of any thing which has been done, and of any consequence which has ensued therefrom, the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if either the act shall have been done or the consequence shall have ensued within the local limits of the jurisdiction of such Court, in the same manner as if both the act had been done and the consequence had ensued within such local limits.

Offence may be dealt with, if either the act was done or the consequence ensued within the jurisdiction.

XXXII. Whenever a person shall be accused of any offence punishable under Section 411, 412, 413, or 414 of the Indian Penal Code in respect to the receiving or retaining of stolen property, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence, by which the possession of the property shall have been transferred, shall have been committed, either wholly or in part, within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

Jurisdiction as to receiving stolen property, when part only of the offence is committed within the jurisdiction.

Jurisdiction in cases of dishonest removal or concealment of property.

XXXIII. If any person shall be accused of any offence under Section 424 of the Indian Penal Code of dishonestly or fraudulently concealing or removing any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

Provision for cases on or near the boundaries of local jurisdiction.

XXXIV. If any act shall have been committed or the consequence of any act shall have ensued on the boundaries of the local jurisdiction of such Court, or so near to such boundaries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed, and taken to have been committed or to have ensued within such local limits.

Provision for the case of offences committed on a journey or voyage.

XXXV. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court.

Escape from any lawful custody under sentence.

XXXVI. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice or by virtue of a commutation of such sentence, or shall be charged with any offence declared to be punishable under Section 227 of the Indian Penal Code, or under Section 12 of Act XXIV. of 1855 *(relating to Penal servitude,)* the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if such person shall be apprehended and re-taken within the local limits of the jurisdiction of such Court, or if he was formerly tried by such Court, or, in the case of an escape from custody, if he shall have escaped from custody in any place within such local limits.

Justices may deal with offences triable under this Act.

XXXVII. Every Justice of the Peace shall have power to deal with any person charged with an offence for which he is liable under this Act to be tried by any of Her Majesty's Supreme Courts of Judicature, in the same manner as if such offence had been wholly and entirely committed within the local limits of such Court.

Former conviction or acquittal to be a bar to subsequent trial or conviction.

XXXVIII. A former conviction or acquittal before a Court of competent jurisdiction of any offence hereby made punishable by Her Majesty's Supreme Courts of Judicature, shall be a bar to any subsequent trial or conviction for the same offence.

Part of Statute 9th Geo. IV., c. 74, to apply

XXXIX. The provisions of Sections 10, 12, 13, 14, 15, 16, 18, and 23 of the 9th Geo. IV., c. 74, intituled "An Act for improving the administration of Criminal Justice in the East Indies," shall be deemed to apply to and

to offences under Penal Code.

to include any offence punishable under the Indian Penal Code. Section 5 of the said Act shall be deemed to include murder or culpable homicide not amounting to murder; and the words felony or misdemeanor in Section 110 of the said Act shall be deemed to extend to and include any offence declared to be punishable under the Indian Penal Code by means of or in consequence of which the possession of property shall have been transferred.

No indictment to be held to be insufficient for immaterial errors.

XL. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes," or *vice versâ*, nor because any person mentioned in the indictment is designated by a name of office or other description or appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or on an impossible day or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price or the amount of damage, injury, or spoil is not of the essence of the offence.

Formal objections to indictments must be taken before Jury are sworn. Court may amend any formal defect.

XLI. Every objection to an indictment for uncertainty, or for any formal defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the Jury shall be sworn, and not afterwards, and every Court before which any objection shall be taken by demurrer or motion to quash for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particulars by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

No person to be entitled to a postponement of trial.

XLII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of Oyer and Terminer or Session of Gaol delivery: Provided, always, that if the Court, upon the application of the person so indicted, or otherwise, shall be of opinion that he ought to be allowed a further time either to prepare for defence or otherwise, such Court may adjourn the Sessions to any subsequent day, and may adjourn the trial of such person to such day or to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent day or Session, without entering into any fresh recognizance for that purpose.

Plea of autrefois convict or acquit.

XLIII. In any plea of Autrefois Convict or Autrefois Acquit, it shall be sufficient for the person accused to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Prosecution for adultery not to be instituted except by the husband.

XLIV. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge.

XLV. A charge of an offence under Section 498 of the Indian Penal Code shall not be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

Proof necessary that husband or person in charge of woman has instituted the charge.

XLVI. Upon the trial of an indictment for either of the offences mentioned in the last two preceding Sections, it shall be necessary to prove that the charge was instituted by the husband of the woman if the charge be made under Section 497 of the Indian Penal Code, or by the husband of the woman, or by the person having care of such woman on behalf of her husband, if the charge be made under Section 498 of the said Code, and in either case that the indictment is prosecuted by such husband or other person as the case may be; and on failure of such proof the indictment shall be quashed, and the person accused shall be discharged.

XLVII.—LII. *Repealed by Act XII. of* 1865, *and again by Act XII.*, 1867, *Section* 2, *and Schedule.*

Provisions for persons now in the House of Correction.

LIII. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of the Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, or of the keeper of such House of Correction, and such Officer and keeper shall be responsible for the safe custody of all such persons.

Commencement of Act at Fort William in Bengal.

LIV. This Act shall commence and take effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing of the Act; and shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Court or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred.

Commencement of Act at Madras and Bombay.

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay respectively, or in any Courts to which the whole or any part of the Criminal jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette, by an order of the Governor in Council of Fort St. George and Bombay respectively, that the Act is to take effect in such Courts; and from such time the provisions of the Act shall, so far as the same are applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Courts or in any other Courts to which the whole

or any part of the Criminal jurisdiction of such Courts shall be transferred.

Act XVI. of 1852, how far repealed.

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature as provided in the last two preceding Sections, Act XVI. of 1852 is repealed so far as it relates to indictments and proceedings in such Court, except as to offences not punishable under the Indian Penal Code.

Definitions.

"Indictment."

"Finding of the indictment."

Number and gender.

"Acts done."

"British India."

"Property."

LVII. In the construction of this Act, unless where a contrary intention appears from the context, the word "indictment" shall be understood to include information, inquisition, or presentment, as well as indictment, and also any plea, replication, or other pleading; and the term "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making of a presentment; and words importing the singular number or masculine gender shall include several persons and parties as well as one person or party, and females as well as the males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing. Words which refer to acts done shall include illegal omissions. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22, Vict., c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

ACT No. XIX. OF 1862.

Oude.

An Act to extend to the Province of Oude certain provisions of Acts XIV. of 1843 and XXXVI. of 1855, relating to the manufacture of contraband Salt, and to amend the last-named Act.

Preamble.

Whereas it is expedient to extend to the Province of Oude certain provisions of Act XIV. of 1843 *(for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal,)* and of Act XXXVI. of 1855 *(to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces,)* and to amend the last-named Act; It is enacted as follows:

Certain parts of Act XIV. of 1843 and Act XXXVI. of 1855 extended to Oude.

I. So much of the said Act XIV. of 1843 as relates to the manufacture of alimentary Salt, and the prevention and punishment of the illicit manufacture and importation of such Salt, and the said Act XXXVI. of 1855 as hereinafter amended, shall be held to have been and are hereby extended to the Province of Oude from the date on which Act XXXI. of 1861 *(to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof,)* was extended to the said Province in the manner provided in Section 18 of the said Act.

II. Section 4 of Act XXXVI. of 1855 is hereby repealed, and the following Section is enacted in lieu thereof, and shall be read and construed in the same manner as if it formed part of the said Act, namely:—

Forcible entry into zenanahs.

"If the place to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenanah or apartment that she is at liberty to withdraw, and after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt: Provided that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only."

ACT No. XX. OF 1862.

High Court (Bengal.)

1.—4. Repealed.
5. Sections 184, 185, 186, and 359 of Act VIII. of 1859 suspended as to the High Court, the Judges of which shall record their judgments and orders as prescribed by the Rules of the Court.
6. The Court may fix the time for preferring appeals from judgments, orders, and decrees of its own Judges or Division Courts.
7. Repealed.
8. If necessary, a decree may be enforced before the amount due for costs has been ascertained, and execution for costs may issue subsequently.
9. Except as to pleading, the Court may authorize an Attorney to do any act required under Act VIII. of 1859 to be done by a Pleader.
10. Act to apply to the High Courts of Madras and Bombay, when established.
11.—12. Repealed.

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 *in the said High Court.*

* Whereas it is expedient to suspend the operation in the said High Court of certain Sections of Act VIII. of 1859 *(the Code of Civil Procedure)*, relating to the manner in which the judgments and orders of the Courts of Civil Judicature are to be recorded; It is enacted as follows:

I. *Repealed by Section* 2 *of Act XV.*, 1868.

II. *Repealed by Act VII.*, 1870, *Schedule* 3.

V. The operation of the following Sections of the said Act VIII. of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court; and the said High Court, and every Division Court and Judge thereof, shall record their judgments, and the orders passed by them respectively, in such manner as the said High Court shall by any general rule or rules from time to time direct.

Parts of Act VIII. of 1859 *suspended.*

Court to record its judgments and orders as it shall by rule direct.

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* The commencement of this Preamble was repealed by Act VII., 1870, Section 2, Schedule 3.

Court may fix time for preferring appeals from judgments, &c., of its own Judges or Division Courts.

VI. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

VII. *Repealed by the Repealing Act XIV.*, 1870.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently.

VIII. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs, that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Court may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an attorney.

Proviso.

IX. Whenever any thing is directed by the said Act VIII. of 1859 to be done by or through a Pleader, the said High Court, or any Judge thereof, in the exercise of the ordinary original Civil Jurisdiction of the said Court, may authorize such act to be done by or through an Attorney-at-Law of the Court: Provided that no Attorney shall be authorized, under the provisions of this Section, to plead in the said Court or in any Division Court for any person.

Application of Act to the High Courts at Madras and Bombay.

X. This Act shall apply, *mutatis mutandis*, to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 and 25 Victoria, chap. 104, for those Presidencies respectively, whenever such Courts shall be established: Provided that the powers vested by this Act in the Governor-General in Council shall be exercised in the Presidencies of Madras and Bombay by the Governors in Council of those Presidencies respectively.

XI., XII. *Repealed by the Repealing Act XIV.*, 1870.

Act No. XXIV. of 1862.

The whole of this Act, except Section 2, is repealed by the Repealing Act VIII., 1868.

High Court may fix the time for application for review of judgment.

II. The following words shall be read as if they had been added to Section 6 of the said Act XX. of 1862:—The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original civil jurisdiction, shall be preferred.

ACT No. I. OF 1863.*

British Burmah.

1. Repealed.
2. Besides Recorders' Courts, Small Cause Courts, or other Courts to be hereafter established, there shall be six grades of Courts in Burmah, viz., the Courts of the Chief Commissioner, Commissioner, Deputy Commissioner, and Assistant Commissioner (or Extra Assistant of 1st Class); and the Courts of the Extra Assistant of the 2nd (Tseekay) and 3rd (Myooke) Classes.
3. Extra Assistants of 3rd Class empowered to try suits not exceeding 500 Rupees in value.
4. 2nd Class Extra Assistants to try suits up to 3,000 Rupees.
5. Assistant Commissioners and 1st Class Extra Assistants to try suits up to 5,000 Rupees.
6. Deputy Commissioners to try suits above 5,000 Rupees, and hear appeals from the lower Courts.
7. Commissioners to hear appeals from the original decisions and orders of the Deputy Commissioners. They may also receive second appeals from the decisions of their Deputies passed in regular appeal, and, in such cases, no special appeal shall be allowed from such decisions or from the decisions of the Commissioners on such second appeals.
8. Except as above and in Section 18, the Chief Commissioner to hear special appeals from the decisions of the Deputy Commissioners and Commissioners passed in appeal.
9. Suit to be instituted in the Court of the lowest competent grade.
10. The Chief Commissioner, Commissioners, and Deputy Commissioners may withdraw and transfer suits for trial from one lower Court to another.
11. Suits for immoveable property situate in different Districts may be brought in any Court within whose jurisdiction any portion of the property is situate, but the Court must obtain the authority of the Commissioner of the Division before proceeding with the suit.
12. If the property be situate in Divisions subject to different Commissioners, the Commissioner to whom application is made must obtain the concurrence of the other Commissioner.
13. Except when otherwise provided by law, appeals to lie from the decisions of the Courts of original jurisdiction.
14. If the appeal lie to the Deputy Commissioner, the memorandum of appeal must be presented within 30 days; and if to the Commissioner, within 6 weeks.
15. In cases of appeal preferred under Section 6 or 7, the Commissioner or Deputy Commissioner may confirm the decision of the lower Court, without summoning the respondent.
16. Applications for second appeals to be preferred within the period prescribed for regular appeals to the Commissioner.
17. Applications for special appeal to be made within 90 days from the judgment appealed against.
18. No special appeal to lie from the decision of any Court in suits under 500 Rupees of the nature of those cognizable in Small Cause Courts.
19. In cases of regular appeal in which no special appeal is allowed, and in cases of second appeal questions of law or usage may be submitted for the decision of the Chief Commissioner.
20. Applications to appeal *in formâ pauperis* to be on Stamp Paper of one Rupee if made to the Deputy Commissioner, and of two Rupees if made to the Commissioner or Chief Commissioner.
21. Applications for review of judgment may be made on the ground of the discovery of fresh evidence, or on other good and sufficient reason; but must be made within 90 days.
22. Cases under Acts XIX. of 1841, XL. of 1858, IX. of 1861, XXXV. of 1858, and XXVII. of 1860, to be determined by the Deputy Commissioner, and appeals from orders passed in them may be made within 30 days to the Commissioner.
23. Proceedings in Civil suits to be regulated by the Code of Civil Procedure.
24. Acts XIV. of 1859 and XIV. of 1862 extended to Pegu, except as to pending suits, from the date on which this Act comes into operation in Burmah.
25. Chief Commissioner to exercise the powers vested in the Sudder Court by the Code of Civil Procedure.
26. Repealed.
27. The local jurisdiction of a Deputy Commissioner to be deemed a District, and his Court to be deemed the District Court.
28. Repealed.

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

Preamble.

Whereas it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah, subject to certain alterations and provisoes, and that provision should be made for extending the operation of certain Acts to the said Territory: It is enacted as follows:—

I. *Repealed by the Repealing Act XIV.*, 1870.

Grades of Civil Courts in British Burmah.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely:—

1. The Court of the Extra Assistant of the 3rd class, or the Myooke's Court.

* See Acts XXI. and XXIV. of 1863.

2. The Court of the Extra Assistant of the 2nd Class, or the Tseekay's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the 1st Class.

4. The Court of the Deputy Commissioner.

5. The Court of the Commissioner; and

6. The Court of the Chief Commissioner.

Jurisdiction of Court of Extra Assistant of 3rd Class, or Myooke's Court.

III. The Court of the Extra Assistant of the 3rd Class, or the Myooke's Court, shall have power to receive, try, and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant of 2nd Class, or Tseekay's Court.

IV. The Court of the Extra Assistant of the 2nd Class, or the Tseekay's Court, shall have power to receive, try, and determine suits of every description not exceeding 3,000 Rupees in value or amount.

Jurisdiction of Courts of Assistant Commissioner and of Extra Assistant of 1st Class.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the 1st Class, shall have power to receive, try, and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy C mmissioner.

VI. The Court of the Deputy Commissioner shall have power to receive, try, and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions, and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the 3rd Class, or the Myooke's Courts, of the Courts of the Extra Assistants of the 2nd class or the Tseekay's Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the 1st Class, in the District of such Deputy Commissioner.

Jurisdiction of the Court of the Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division, passed in regular appeal, reversing or modifying the decision of the Court of original jurisdiction, on a point material to the merits of the case, if, on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be filed with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether for confirming, modifying, or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal, shall have the same effect as a confirmation of the decree of the lower Court.

VIII. The Court of the Chief Commissioner shall, except as pro-

Jurisdiction of the Court of Chief Commissioner.

vided in the last preceding Section and in Section 18 of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

In what Court suit shall be instituted.

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Transfer of suits.

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner, or for the Commissioner of a Division, to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Court subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XI. If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division, through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in different Divisions.

XII. If the Districts within the limits of which the property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Appeal to lie from all decisions, except when exprsssly prohibited.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Memorandum of appeal within what time to be presented.

XIV. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from, and exclusive of, the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from

which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure or by this Act, shall be presented within the same period as appeals from decisions.

Decision appealed from may be confirmed without summoning the respondent.

XV. In cases of appeal preferred to a Deputy Commissioner under Section 6, or to a Commissioner under Section 7 of this Act, it shall not be necessary to summon the Respondent in the first instance, and if, upon the perusal of the judgment of the Court below of the whole or any part of the record of the original suit and of the petition of appeal in the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the Respondent, through the Court from whose decision the appeal was made.

Procedure as to second appeal.

XVI. Applications for a second appeal under Section 7 of this Act shall be preferred in the manner and within the period prescribed in Section 14 for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

Applications for the admission of special appeals.

XVII. Applications for the admission of a special appeal which the Chief Commissioner is empowered by Section 8 of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days, reckoned from, and exclusive of, the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause, to the satisfaction of the Chief Commissioner, for not having presented the application within such period.*

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of 500 Rupees.

Reference of question to the Chief Commissioner.

XIX. If in any case of regular appeal in which under the last preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section 7 of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement, with its own opinion, for the decision of the Chief Commissioner. The

* The rest of this Section is repealed by Act VII., 1870, Section 2, Schedule 3.

provisions contained in Sections 29 to 34 of Act XXIII. of 1861 *(to amend Act VIII. of* 1859, *for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter)*, shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court, so far as the same are applicable.

Application to appeal in formâ pauperis.

XX. Applications to be allowed to appeal in *formâ pauperis** shall be presented in the Court competent to receive the same, within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to the Chief Commissioner, within the period prescribed by this Act for the presentation of an application for the admission of a special appeal.

On what grounds review of judgment may be applied for.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree passed in appeal from which no second or special appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree. Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

And within what time.

Extension of certain Acts.

XXII. Act XIX. of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of successions)*, Act XL. of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)*, and Act IX. of 1861 *(to amend the law relating to Minors)* are hereby extended to British Burmah. All cases or proceedings arising under the said Acts or under Act XXXV. of 1858 (*to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature*), or Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Acts contained respectively as to jurisdiction and otherwise. All orders passed by the Deputy Commissioners in such cases or proceedings shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the

Trial of cases or proceedings under the above and other Acts.

* The provisions of this Section as to stamp are repealed by the 3rd Schedule of Act VII., and have been struck out.

party making the appeal can show good and sufficient cause, to the satisfaction of the Commissioner, for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final.

Appeal.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the Courts of Civil Judicature in British Burmah mentioned in Section 2 of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

Procedure of the Civil Courts in British Burmah to be regulated by the Code of Civil Procedure.

XXIV. Act XIV. of 1859 *(to provide for the limitation of suits)*, as amended by Act XIV. of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah, in supersession of any law of limitation in force in the said Province: Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained be tried and determined as if this Act had not been passed: Provided also, that Clause 15 of Section 1 of the said Act XIV. of 1859 shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that Province.

Act XIV. of 1859 extended to Pegu.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

Powers vested in Sudder Court, to be exercised by the Chief Commissioner.

XXVI. *Repealed by Act VII.*, 1870, *Section* 2, *Schedule* 3.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Construction of "District Court."

XXVIII. *Repealed by the Repealing Act XIV.*, 1870.

Act No. II. of 1863.

Non-Regulation Provinces.

1. Highest Court of Civil Jurisdiction in any Non-Regulation Province may, subject to the Rules and Orders prescribed for the purpose, admit an appeal to Her Majesty in Council from any final judgment, decree, or order of its own, in cases above the value of 10,000 Rupees, or in any other case which it shall deem fit for such appeal.
2. Such Court may also permit an appeal from any preliminary or interlocutory judgment, decree, or order made by itself in any such proceeding, not being of criminal jurisdiction.
3. On admission or permission of an appeal, notice to be given to the other party.
4. The Court may either order the judgment appealed against to be enforced, or may suspend execution pending the appeal, taking sufficient security in either case.
5. Appellant to find security for the costs of the appeal.
6. Party desirous of appealing may, within six months from date of judgment, petition the Court to require security from the other party for staying execution or any other purpose.
7. The Court may at any time require further security.
8. In default of further security, Court may order enforcement of the judgment, if security was originally furnished by the appellant, or may compel the delivery of the property the subject of appeal if it was furnished by the respondent.
9. Two copies of the proceedings in the suit appealed against to be forwarded to Her Majesty in Council.

10. Expense of copying and translating to be defrayed by the appellant.
11. Court to require a deposit for such expense as a preliminary to the admission of the appeal.
12. Either party may obtain copies of papers, on paying for the expense.
13. Also copy of any local regulation or law.
14. Orders of decrees of Her Majesty in Council to be enforced and executed as original orders or decrees.
15. Petition for execution of such decree or order to be made to the Court which made the first decree or order appealed from.
16. Appeal to lie from order of execution of decree made in appeal as aforesaid, in the same manner as an appeal would lie from an order for the enforcement of the decree appealed from.
17. Court of highest Civil jurisdiction may enforce or obtain execution of the decree, if ordered so to do by Her Majesty in Council.
18. Nothing in this Act to be understood to bar Her Majesty from rejecting or receiving appeals.
19. Interpretation of the words "British India."

An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.

Preamble.

Whereas it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations; It is enacted as follows:

Admission of appeal.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal, subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council, in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

Appeal from interlocutory judgments.

II. It shall further be lawful for such Court at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty, respecting appeals from final judgments, decrees, and orders of Her Majesty's said High Courts of Judicature.

Notice of appeal to the other party.

III. On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

Court may either enforce judgment taking security, or suspend

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may

execution pending appeal.

make on the appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended.

Appellant to find security for costs of appeal

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

Time allowed for presenting petition of appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section 1 or Section 2 of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

If security be found inadequate, Court may require it to be increased.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

If additional security be not furnished.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

IX. In every case of appeal under this Act, the Court shall certify and transmit to Her Majesty in Council, under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Expense of copying and translating papers in appeals to be paid by Appellants.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

Court to require a deposit for such expense prior to the admission of an appeal.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Either party, on paying for the same, may obtain copy of any paper.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit, on paying the reasonable expenses incurred in preparing them.

And of any local regulation or law.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

Decrees of Her Majesty in Council how to be executed.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Execution how to be obtained.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Appeal from order of enforcement.

XVI. An appeal shall lie from any decree or order made by such last-mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid, in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Saving of Her Majesty's power as to receiving or rejecting appeals.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any she may consider inadmissible, or in receiving any she may judge admissible.

Interpretation of "British India."

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vict., c. 106, entitled "An Act for the better Government of India."

ACT No. III. OF 1863.

The Straits.

1. Section 3 of Act XLVIII. of 1860 to cease to have effect in the Stations of the Straits, but without reviving the operation of Section 15 of Act XIII. of 1856.
2. Members of the Police Force to sign a declaration to serve for a certain period not exceeding five years.
3. Police Officer deserting or withdrawing from service, to forfeit arrears of pay, and be liable to a fine not exceeding 6 months' pay and allowances, or to imprisonment not exceeding 3 months, or both.
4. Person keeping a Tavern or place of public entertainment without license from the Commissioner of Police, liable to a daily fine of 25 dollars.
5. Licenses to be granted by the Commissioner of Police: but not for the sale of liquors, or intoxicating drugs, to persons who have not taken out the necessary Abkaree license.
6. Licenses liable to a fine of 50 dollars for a breach of the condition of a license, even if the breach be owing to the default or carelessness of a servant.
7. Act to be read with Act XIII. of 1856, and to come into operation on 1st March, 1863.

An Act to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:

Section 3 of Act XLVIII. of 1860 repealed.

I. Section 3 of Act XLVIII. of 1860 (to amend Act XIII. of 1856, for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca) shall cease to have any effect in any of the said Stations from the time when this Act shall come into operation, provided that nothing in this Section shall be held to revive the operation of Section 15 of the said Act XIII. of 1856.

Members of the Police Force to sign a declaration that they will serve for a certain period.

II. No person shall be enrolled a member of the Police Force in any of the said Stations, who shall not sign a declaration, in the form provided in the Schedule to this Act, that he will serve as a member of such Force for such period, not exceeding five years, as shall be fixed by the Commissioner of Police of such Station acting under the orders of the Governor of the said Settlement; and no person who shall have signed such declaration shall be at liberty to resign his Office, or to withdraw himself from the duties thereof, except with the permission of the Governor of the said Settlement, to be granted on a Certificate of ill health from a Medical Officer of Government, or on a special recommendation of such Commissioner of Police: Provided that nothing in this Section shall interfere with the power of such Commissioner of Police, under Section 10 of the said Act XIII. of 1856, to suspend or dismiss any member of the Police Force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Deserting or withdrawing from service.

III. Every Member of the Police Force in any of the said Stations, who shall have signed the declaration hereinbefore mentioned, and who shall desert or withdraw himself from such Police Force, by absenting himself from duty without reasonable excuse for a period exceeding twenty-four hours, or otherwise, shall, on conviction before a Magistrate, forfeit all arrears of pay and allowances that may be due to him at the time of such desertion or withdrawal, and be liable to a fine not exceeding six months' pay and allowances, and on failure of payment thereof to imprisonment, with or without hard labour, for a period not exceeding one month if such fine be not sooner paid; or to imprisonment, with or without hard labour, for a period not exceeding three months; or to both fine and imprisonment.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

IV. Whoever in any of the Stations of the Straits' Settlement has, or keeps, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments, are sold or consumed (whether the same be kept or retailed therein or

procured elsewhere), without a license from the Commissioner of Police of such Station, shall be liable to a fine, not exeeding 25 dollars, for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

The Commissioner of Police shall grant licenses for keeping Taverns, &c.

V. The Commissioner of Police in each of the said Stations shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Stations respectively, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same, and the said licenses may be granted by the said Commissioner for any term not exceeding one year: Provided, always, that it shall not be lawful for the said Commissioner to grant a license to open, or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws, for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix, in a conspicuous part of the house or place specified in the license, a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one dollar.

But only to such persons as have taken out the requisite Abkaree license.

Fees on licenses.

Penalty for breach of license.

VI. A breach of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding 50 dollars, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Construction of Act.

VII. This Act shall be read and taken as part of the said Act XIII. of 1856, and shall come into operation on the 1st day of March, 1863.

SCHEDULE.

FORM OF DECLARATION.

I, A. B., do hereby declare that, in consideration of my being enrolled a Member of the Police Force of————————, I will serve in such Force for a period of————————years.

[Signed] A. B.

Witnesses.
C. D.
E. F.

ACT No. IV. OF 1863.*

Rangoon.

1. Duty on goods imported into Rangoon for export to the Burmese Territory, limited to one per cent. ad valorem.
2. Goods so imported may be conveyed to Maloon and Menhla in charge of a special officer, who shall be held to be a public servant under the Penal Code.
3. Governor-General in Council may discontinue and re-impose any of the Duties now levied at Thayetmyo and Tounghoo.
4. Act to take effect on the ratification of the Treaty.

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

Preamble.

Whereas a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows:—

Article 4th.—"When goods are imported into Rangoon from any "British or Foreign Territory, and declared to be for export by the "Irrawaddy river to the Burmese Territory, the English Ruler shall, "provided bulk is not broken, and he believes the Manifest to be true, "charge one per cent. on their value, and if he so desires shall allow "them to be conveyed under the charge of an officer until arrival at "Maloon and Menhla. The Tariff value of goods shall be forwarded "yearly to the Burmese Ruler. If such goods are declared for export "to other territories, and not for sale in the Burmese territories, the "Burmese Ruler shall, if he believes the Manifest to be true, not cause "bulk to be broken, and such goods shall be free of Duty.

Article 8th.—"Should the British Ruler within one year after the "conclusion of this Treaty abolish the Duties now taken at Thayetmyo "and Tounghoo, the Burmese Ruler, with a regard to the benefit of the "people of his country, will, if so inclined, after one, two, three, or four "years, abolish the Duties now taken at Maloon and Tounghoo (in the "Burmese Territory.)"

And whereas it is necessary to give effect to the stipulations and engagements aforesaid by an Act to regulate the Duties of Customs at the Port of Rangoon and elsewhere in conformity to such stipulations and engagements; It is enacted as follows:

Duty on goods imported into Rangoon from British or Foreign Territory limited to one per cent. ad valorem.

I. When any goods are imported into Rangoon from any British or Foreign Territory, whether under bond or otherwise, and declared by the importer thereof to be for export by the Irrawaddy river to the Burmese Territory for sale therein, or for export through such territory for sale in other territories, such goods may be entered at the Custom House at Rangoon for such export and sale, and thereupon a duty of Customs of one per cent. *ad volorem* and no more, shall be charged, provided that bulk of such goods is not broken, and the Officer in charge of the Custom House is satisfied of the truth of the entry of such goods in the Manifest of the Vessel wherein such goods are brought to Rangoon.

Conveyance of goods imported as above to Maloon and Menhla.

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section, such goods may be conveyed to Maloon and Menhla under charge of an officer to be appointed for the purpose,

* See Act XII. of 1864.

and the officer so appointed to the charge of such goods shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

Government may discontinue Duties now taken at Thayetmyo and Tounghoo.

III. It shall be lawful for the Governor-General of India in Council, by a Notification to be published in the *Calcutta Gazette*, to order the discontinuance of the Duties or any of them now levied at Thayetmyo and Tounghoo, and subsequently, if he shall see fit, by a like Notification, to order that such Duties or any of them shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

Commencement of Act.

IV. This Act shall take effect from the time when the ratifications of the said Treaty are exchanged.

ACT No. VI. OF 1863.*

General.

1. Act to be called the Consolidated Customs Act.
2. Repealed.
3. Interpretation of words.

GENERAL RULES.

4. Chief Customs Authority may, with sanction of local Government, make Rules for regulating the proceedings of Officers of Sea Customs.
5. Also, Rules for landing and shipping passengers' baggage and mail parcels. Fee for landing may be charged.
6. All disputes between Officers of Customs and Masters of vessels, or importers or exporters, to be settled by the Chief Customs Authority, subject to appeal to local Government.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &C.

7. Local Government to appoint the necessary Officers in places in which Duties are levied, and may suspend or dismiss them.
8. The powers of the local Government under the preceding Section may be delegated to any Customs Authority.
9. Where there is no Officer in charge of a Custom House, the Collector of Revenue and his subordinates to be deemed the proper Officers under this Act.
10. Local Government may from time to time declare the limits of Ports for landing and shipping, and appoint wharves. Existing Ports and Wharves to continue until otherwise declared.
11. Governor-General may declare any port to be a Free Port.
12. For the purposes of Sections 18, 141, and 149 to 160, Governor-General in Council may direct a Port on the Continent of India, though not in British India, to be regarded as a British Indian Port.
13. Goods landed or shipped at other than authorized Port, liable, together with the vessel or carriage conveying them, to be confiscated.
14. Local Government may declare any Port or place to be a Warehousing Port. Existing Ports so used, to continue until otherwise declared.
15. Chief Customs Authority to approve, appoint, or license Warehouses. Existing Warehouses to continue until otherwise ordered.

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES.

16. In Ports not free, Duties at the rates prescribed by law to be levied on goods imported by Sea from Foreign Ports.
17. The prescribed Duties to be similarly levied on goods exported from British Ports, not being Free, to Foreign Ports.
18. Except as regards Opium, Salt, and Spirits, no Duties to be levied on goods carried from one Indian Port to another, not being Free Ports.
19. Local Government may authorize Chief Customs Authority, by special order, to exempt any goods from payment of Duty.
20. Baggage in actual use may be passed free of Duty.
21. The importation or exportation of books printed in infringement of an Indian copy-right, of false or counterfeit coin, or of obscene books, pamphlets, &c., prohibited.
22. The importation, without license, of arms and ammunition (except fowling pieces and powder for private use) prohibited.
23. Governor-General in Council may prohibit or restrict the importation or exportation of any particular class of goods.
24. Goods imported or exported contrary to prohibition or restriction, liable to confiscation, and person concerned to a penalty of three times the value, or 1,000 Rupees.
25. Goods not prohibited or restricted may be imported or exported. Dutiable goods may be warehoused without payment of Duty.
26. Importer or exporter to declare real value of goods not liable to Duty, or liable to fixed Duties according to weight or quantity or on Tariff valuation.
27. Goods which appear to be under-valued, may be taken over for Government, and, when sold, half of the excess proceeds may be given to the Officer who detected the under-valuation. Chief Officer may permit amendment of valuation.
28. Goods liable to confiscation with the packages containing them, if wrongfully described, or wilfully mis-stated or concealed, or if the packages differ widely from the description.
29. Date of entry for home consumption to be deemed the date of importation.
30. Date of outward entry to be deemed the date of exportation.

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* Act XX., 1867, and XVII., 1869, are to be read as part of this Act.

31. Goods of Indian manufacture imported from a Foreign Port, to be treated as Foreign goods, unless imported within three years from exportation, and owned throughout by the exporter Goods for which drawback has been received, to be treated as Foreign

32 Stations may be appointed for Customs Officers to board and land from vessels, and for the mooring of small vessels not carrying Pilots. Person infringing orders under this Section liable to a penalty of 500 Rupees.

IMPORTATION.

33 Local Government may fix places beyond which vessels from Foreign Ports are not to proceed, until a Report or Manifest has been delivered to the Pilot or Customs Officer

34 Master of vessel omitting to deliver Manifest, or delivering false Manifest, liable to a penalty of 1,000 Rupees

35 Master of vessel anchoring below the fixed place, and omitting to deliver Manifest within 24 hours, liable to a penalty of 1,000 Rupees

36 Where no place has been fixed, Master to deliver Manifest within 24 hours after landing

37. Penalty of 500 Rupees for refusing to receive Manifest

38 Master removing his vessel from place of mooring without authority of Master Attendant or Harbour Master, liable to a penalty of 1,000 Rupees.

39 Stations for boarding any vessel arriving from a Foreign Port may be appointed by Chief Customs Authority

40 Master of vessel failing to bring to at Boarding Station, liable to a penalty of 1,000 Rupees

41 Officers may be deputed to board vessels arriving at Port, and remain on board by day and by night Discharge of Cargo may be ordered without the presence of an Officer

42. Master of vessel refusing to receive Officer, liable to a penalty of 500 Rupees for each day of refusal

43 Master bound also to receive on board one servant of Officer, and to provide accommodation and shelter for both

44 Officer to have free access to every part of the ship, and may fasten and secure goods If the keys are withheld, a written order may be issued to search and, if necessary, break open any closed receptable, and goods found concealed therein shall be confiscated

45 Master refusing to allow search, or opening, breaking, or conveying away, goods secured, liable to a penalty of 1,000 Rupees.

46 Vessel not to break bulk until Manifest be delivered and order given Special pass for unshipping of Treasure

47 Master, if required, to deliver bills of lading to Officer in charge of Custom House If bills of lading be fraudulent, or if any part of the cargo be staved, &c , without satisfactory explanation, Master liable to a penalty of 1,000 Rupees

48. Goods not entered in Manifest liable to confiscation or to be charged with increased rates of Duty

49 If goods entered in the Manifest be not found, or be short in quantity and the deficiency be not accounted for, Master liable, in addition to full Duty, to a penalty of twice the amount of Duty, or of 500 Rupees for every missing package

50. Amendment of obvious errors may be permitted on the payment of a fee

51. Fifteen days to be allowed for the landing of import cargo from a vessel of 600 tons, and one additional day for every 50 tons in excess If that period be exceeded, vessel to be charged for Customs Officer at five Rupees a day

52—54 Repealed

55 Small packages may at any time be carried to the Custom House, and if not claimed before vessel clear outwards, notice of lien may be given

56 If the Duties and other charges on goods carried to the Custom House under last four Sections be not paid, or the goods warehoused, within four months, the goods may be sold by auction. Perishable goods may be sold at any time

57 Goods not cleared within two months from landing may be sold, and proceeds applied first to payment of Duties and other charges

58 No goods, except passengers baggage, to be discharged on Sundays or holidays, nor except at appointed hours and in presence of Customs Officers, under a penalty of 1,000 Rupees and confiscation

59. Goods removed from vessel, to be landed at the proper wharf or place if not so landed, or if found out of proper track, liable to confiscation

60 Goods not landed at proper wharf, or transhipped before landing liable to confiscation

61 Goods landed without a boat note, liable to confiscation, or person in fault, to a penalty of twice the Duty

62 Importer to deliver to the Officer in charge of the Custom House a bill of entry corresponding with the particulars of the goods in the Manifest with a declaration of the value

63 Person taking or passing goods without entry, liable to a penalty of 500 Rupees No entry necessary for passengers baggage, but if dutiable goods be found concealed therein, the whole liable to confiscation

64 Goods fraudulently removed before passing, liable to confiscation, or if goods cannot be recovered, owner liable to pay full Duty and twice that amount as a penalty, or 1,000 Rupees fine for every missing package

65 Claim to abatement or refund of Duty on account of damaged condition of goods imported, to be in writing, and certified

66 Damaged goods may be sold by auction, and the Duty adjusted on gross amount realised No abatement on articles liable to Duty on quantity, nor on goods liable to "ad valorem' Duty, unless deteriorated to the extent of one fifth

67 Goods derelict, jetsam, flotsam, and wreck, to be treated as Foreign goods, unless entitled to be admitted Duty free, or to abatement in respect of damages

68. Goods stowed in bulk may be weighed or measured before landing, and Duty levied accordingly.

69 Ships stores, and Cargo intended for another Port, if entered as such in the Manifest, not liable to Duty.

WAREHOUSING.

70. Goods may be deposited in Warehouse without payment of Duty

71. Keeper of public Warehouse to be appointed by Chief Officer of Customs, and to be responsible.

72 Chief Officer to determine the terms and conditions of deposit in public Warehouse A table of rates to be placed in a conspicuous part of the building

73 Chief Officer may license private Warehouses, and may revoke the license after one month's notice.

74. Application for license to be in the Form A

75. Application for admission of goods to be in Form B.

76 Goods to be assessed for Duty before warehousing, and the Keeper or license-holder to be answerable, subject to allowance for ullage and wastage for weight or gauge On clearance, goods may be re-assessed for Duty, if an alteration of Duty, or of any fixed valuation for Duty, shall have taken place.

77. Importer of goods warehoused to execute a bond in Form C. Separate bond necessary for cargoes imported by different vessels.
78. Bond to be for twice the amount of Duty, and to stipulate for payment of interest from date of demand.
79. Bonded goods may remain in Warehouse for three years without payment of Duty.
80. Goods carried to a Warehouse, except under care of a Customs Officer and in authorized manner, liable to confiscation, and person so carrying to a penalty of 1,000 Rupees.
81. Goods sent to Warehouse to be accompanied with a pass specifying particulars, to be certified by the Warehouse Officer and returned.
82. If goods be passed by tale or package, importer to be liable for every error tending to injure the Revenue, unless accidental, to a penalty of ten times the amount of Duty likely to be lost. Error of over-statement may be rectified before warehousing.
83. Goods not warehoused in the imported packages, and goods altered or removed except under proper authority, liable to confiscation.
84. Keeper or License-holder liable to a penalty of 50 Rupees, if goods be not stowed so as to admit of easy access.
85. Keeper or License-holder failing to produce goods when required, liable to pay the full Duty, in addition to a penalty of 50 Rupees for each missing package.
86. Goods entered to be warehoused, liable to confiscation if not duly warehoused, or if fraudulently concealed or removed.
87. Officer in charge of Custom House may cause goods lodged in Warehouse to be opened, examined, and sealed. Goods so sealed not to be re-opened without permission of such Officer.
88. Customs Officers to have access to private Warehouse at business hours, under a penalty of 1,000 Rupees, besides cancellation of license.
89. Bonds for Duty on goods deposited in a private Warehouse, to become due seven days after notice of withdrawal of license.
90. Importer to have access to warehoused goods in presence of Customs Officers. If a special Officer be employed for the purpose, Importer to pay the expense.
91. Importer clandestinely gaining access to warehoused goods, liable to penalty of 1,000 Rupees.
92. Importer may, with sanction, sort and re-pack warehoused goods, take samples, and destroy damaged goods.
93 Importer not entitled to compensation for loss or injury, unless occasioned by the wilful act or neglect of Warehouse-keeper or Customs Officer.
94. In case of loss or destruction by unavoidable accident, the Duties may be remitted. In case of damage, Duty to be re-assessed according to actual value.
95. Duty to be on quantity or value registered at importation, with an allowance for ullage or wastage in the case of Wines, &c., or Salt.
96. License-holder liable to a penalty of five times the Duty on any goods that may be found deficient, except in the case of Wines, &c., when a special allowance may be made.
97. If goods lodged in private Warehouse exceed the registered quantity, excess to be charged with five times the Duty.
98. Goods not to be removed from Warehouse without a Pass.
99. Application for removing goods to be made in the Form D., 24 hours before intention to remove.
100. If the goods be taken out from Warehouse except as provided, bonder shall forthwith pay Duty, and person concerned a penalty of 1,000 Rupees. If the offender be a Custom Officer not on duty, and be convicted on prosecution of Importer, no Duty shall be payable in respect of goods, and damage shall be repaid by Officer in charge of Custom House.
101. Expenses of carriage, packing, and stowage of goods to be defrayed by Importer.
102. If the rent and dues of a public Warehouse be not paid by the importer monthly, within ten days of presentation of bill, a portion of the goods may be sold for their liquidation.
103. If goods be taken from Warehouse otherwise than for removal to another Warehouse, or for exportation, or if not cleared and exported within the prescribed time, import Duty and charges to be demanded
104. On failure to pay Duty or penalty, the bond may be proceeded upon, or a sufficient portion of goods detained and sold, after ten days, in satisfaction of demand, notwithstanding transfer or assignment.
105. Goods may be removed from one Warehouse to another on application made in Form E.
106 Warehoused goods may be removed from one Port to another on application to Chief Customs Authority.
107. On removal of warehoused goods from one Port to another, Importer to enter into a bond. An account of goods removed to be transmitted to the Port of destination.
108. Importers may be permitted to enter into a general bond for removal of goods from one Warehouse or Port to another.
109. Goods removed to be subject, at Port of removal, to same laws as on first importation.
110. Importer may, without payment of Duty, tran-ship goods from one Port to another, on entering into a bond for due arrival and entry at Port of destination. Goods to be treated there as warehoused goods removed Transhipment to be superintended by a Customs Officer.
111. On arrival of goods tran-shipped, they may, on payment of Duty and after entry and examination, be forthwith exported or cleared for home consumption.
112. When goods are removed from a Warehouse, the particulars thereof to be noted on the back of the bond.
113. A register to be kept of all bonds for Duty on warehoused goods, and when goods are removed, and the Duties, charges, and penalties paid, the bond to be cancelled and returned.
114. Settlement of Duty on bonded goods not to be delayed beyond three years.
115. Provisions relating to private Warehouses to apply to the Bengal Bonded Warehouse Association.

EXPORTATION.

116. Order for entry outwards or shipment or export cargo to be obtained, before any goods are put on board, under a penalty of 1,000 Rupees
117. Fifteen working days after period allowed for discharging import cargo, to be allowed for shipment of export cargo of a vessel of 600 tons, and one additional day for every 50 tons in excess; but allowance to be made for the period during which vessel is laid up. If goods be shipped during such laying up, Master liable to a penalty of 1,000 Rupees, and goods, if not protected by a pass, to confiscation.
118. No goods, except passengers baggage, to be shipped for exportation on holidays, or at other than appointed times and places, and in presence of Customs Officers after entry and clearance, under a penalty of 1,000 Rupees and confiscation.
119. Customs Officer may open package and examine.
120. Officers may be deputed to board vessels clearing from Port, and remain on board by day and by night. Shipment of cargo may be ordered without the presence of an Officer.
121. Master of vessel refusing to receive Officer, liable to a penalty of 500 Rupees per day.

122. Master bound also to receive on board one servant of Officer, and to provide accommodation and shelter for both, under a penalty of 500 Rupees.

123. Goods not to be shipped until exporter deliver shipping bill.

124. Warehoused goods, and goods subject to Excise Duties, or entitled to drawback, or exportable under restrictions, not to be exported without a security-bond.

125. Goods for shipment to be accompanied with a boat-note, to be delivered to the Customs Officer on board or the Master of the vessel, on requisition, under a penalty of 500 Rupees.

126. No vessel to depart without a Port-clearance, under a penalty of 1,000 Rupees for departing, and 500 Rupees for attempting to depart. Penalty may be levied at any Port in British India, and certificate of Chief Officer of Customs to be deemed sufficient *primâ facie* proof.

127. Pilot not to take charge of vessel without production of Port-clearance, under a penalty of 1,000 Rupees.

128. Manifest in duplicate, and Certificates, to be delivered by Master at time of application for Port-clearance. One copy of Manifest to be countersigned and returned.

139. Port-clearance may be refused, if Manifest and Certificates are not produced, and Port-dues and other charges paid, or their payment guaranteed.

130. Goods liable to import Duty, or taken from a Warehouse for exportation, or entitled to drawback on exportation, enumerated in Manifest and not duly shipped, or certified as short-shipped, liable to confiscation. Master liable to a penalty of 50 Rupees for each package not entered in Manifest, and to a penalty of three times the value of any goods landed at other than place of clearance

131. In addition to ordinary Duty, a charge of 2 per cent. upon value to be made on all goods (except Treasure and Opium) entered for shipment after grant of Port-clearance.

132. Duty on goods not shipped, or re-landed, to be returned, on application made before departure of vessel.

133. Stations may be appointed at which outward bound vessels shall bring to for landing Customs Officers or further examination.

134. Master not bringing to at appointed Station, liable to a penalty of 1,000 Rupees, which may be levied at any Port. Certificate of Chief Officer of Customs of Port of departure sufficient *primâ facie* proof of failure to bring to.

135. Goods may be landed for re-export, if vessel return to Port without having discharged cargo, or enter another Port; and such goods may be re-exported free of Duty if lodged in charge of a Customs Officer. Charges of custody to be borne by exporter.

136. If a vessel, returning to Port after Port-clearance, be entered under Import Rules, Export Duty on goods to be refunded, and drawback reclaimed. If goods liable to drawback be found deficient, Master liable to pay value thereof.

Drawback.

137. Upon the re-exportation, within two years, of imported goods (except Salt, Opium, and Ship's Stores) $\frac{7}{8}$ths of Duty to be repaid as drawback. Chief Customs Authority may prohibit any reservation of Import, paid on articles chargeable with Export Duty.

138. Claim to receive drawback must be made at time of re-export, and payment demanded within one year from shipment.

139. If amount of drawback claimed exceed value of goods, drawback not to be allowed and goods to be confiscated.

140. No drawback on goods not included in Manifest.

141. No drawback on goods exported from one Port in India to another nor after three years from first importation.

142. Person claiming drawback, to make a declaration of actual exportation, and of the right to drawback.

143. Goods on which drawback has been paid, liable to confiscation if not duly exported; and persons concerned in unshipping or re-landing such goods, liable to pay three times the value of the goods or a penalty of 1,000 Rupees.

144. Drawback of entire duty allowed for wine intended for consumption of Naval Officers according to scale.

145. Person claiming drawback to state particulars. Such wine to be shipped under care of Customs Officers.

146. Such wine may with permission be transferred, tran-shipped, or re-landed and warehoused, and may be cleared for home consumption on re-payment of Duties.

147. Such wine liable to confiscation, if not laden in proper vessel, or unladen without permission.

148. Provisions and Stores for the Navy to be passed free of Duty, and where Duties have been paid drawback to be allowed.

Coasting Trade.

149. Except Opium, Salt, and English-made spirits; goods imported and tran-shipped without payment of Duty; and goods removed in bond—no Duties to be levied on goods carried in Coasting vessels.

150. No drawback for goods shipped in Coasting vessels.

151. Local Government may make Rules for regulating the carriage of goods coastwise. Master of a Coasting vessel contravening such Rules, or touching at any Foreign Port without declaring the same at the next Indian Port, liable to a penalty of 1,000 Rupees, and to pay double Duty in addition to the ordinary Duty.

152. No goods, except passengers' baggage, to be unshipped from any Coasting vessel, or be shipped for carriage coastwise, on Sundays or holidays, nor except at appointed hours and places, and in presence of Customs Officers, under a penalty of 500 Rupees and confiscation of goods.

153. Master of vessel to keep a Cargo book, and to enter therein certain particulars. Cargo book to be open to inspection of Customs Officers, and goods not corresponding with entries therein liable to confiscation. Master liable to a penalty of 500 Rupees for not correctly keeping such book, or not producing it on demand.

154. Before leaving Port, Master of Coasting vessel to deliver to Officer in charge of Custom House an account in duplicate in Form G., under a penalty of 500 Rupees if the account be false.

155. A bond may be required from owner for due arrival at Port of destination. If Certificate of arrival be not produced within prescribed time, owner liable to pay double Export Customs Duties on Cargo.

156. A general pass for lading and unlading of a Coasting steam vessel may be granted, and revoked on notice.

157. Pass to be delivered within 24 hours of arrival at Port, and before unlading any Goods, under a penalty of 200 Rupees.

158. Goods subject to Excise Duty not to be unladen without permission.

159. Goods laden on, unladen from, or found in, a Coasting vessel contrary to provisions of this Act, liable to confiscation and Master to a penalty of 500 Rupees.

160. Customs Officer may board Coasting vessel and demand production of documents. Master refusing to deliver document liable to a penalty of 200 Rupees.

Cargo Boats.

161. Goods found in unlicensed Cargo Boat after prohibition of the use of such boats, liable to confiscation, unless covered by special permit.

162. Cargo boats to be licensed and registered by Chief Officer of Customs in Ports brought under the operation of the preceding Section.

Spirits.

163. Spirits manufactured after the English method may be removed from distillery for exportation under bond, but such spirits must be exported within four months, or if exported to any other Indian Port, proof of the landing and of the payment of Duty there must be furnished within six months. Such periods may be extended by the Chief Officer of Customs.

164. Spirits so removed to be taken under passes from distillery direct to Custom House.

165. Spirits to be gauged and proved by Officer of Customs previous to shipment. Drawback and settlement of bond to be regulated by such gauge and proof.

166. After setting off allowance for ullage and wastage, Duty recoverable upon difference between quantity of spirits passed from distillery, and that ascertained by gauge and proof.

167. Drawback to be allowed on spirits exported under Section 124 within one year.

168. No drawback on spirits exported from one Indian Port to another, but such spirits may be exported under bond, which shall be cancelled on production of Certificate of Customs Officer at Port of importation.

169. Spirits exported under bond from one Indian Port to another, to be chargeable at Port of destination with ordinary Customs Duties.

170. Rum Shrub and cordials to be charged with Duty according to quantity of spirits used in their preparation, and to be exported under same rules: bond to be in Form H.

171. Spirits brought for exportation under bond may be removed for local consumption on payment of Excise Duty.

172. No drawback to be allowed, nor Duty remitted, unless spirits be shipped in vessel having an Officer on board; such spirits not to be re-landed without a special pass.

173. Spirits re-landed without a special pass liable to confiscation, and person attempting so to re-land, to a penalty of 500 Rupees.

Agents.

174. Person acting as Agent for the entrance and clearance of vessels and goods without authority, liable to a penalty of 500 Rupees.

175. Customs Officer may require written authority from person acting on behalf of another. Clerk or servant authorized to act as agent to be identified, and written authority to be deposited, authorizing payment of drawbacks, refunds, &c., to such person on production of receipts.

Duplicate Bill of Entry, &c.

176. Importer or Exporter to deliver, if required, a duplicate bill of entry or shipping bill.

177. Under a penalty of 200 Rupees.

Taking of Samples.

178. Officer in charge of Custom House may take samples, returning or accounting for the same.

Miscellaneous Provisions.

179. Repealed.

180. Where no value has been fixed, the value to be the wholesale cash price, less trade discount and Import Duty.

181. Person entering timber or wood, to pile and sort the same at his own expense for measurement, no allowance to be made for interstices.

182. Marine Stores may be tran-shipped from one vessel to another of the same owner, without payment of Duty.

183. Ship's stores warehoused at time of importation, and articles of Indian produce or manufacture may be shipped, free of Duty, for consumption on board of vessel proceeding to Foreign Port, provided the voyage be of longer duration than thirty days.

184. In case of dispute as to proper rate of Duty, the amount demanded to be deposited pending decision.

185. Duties short-levied or erroneously refunded may be demanded within six months; and if demand be not complied with, Customs Officer may refuse to pass any goods of such person.

186. No duties or charges erroneously levied to be returned, unless claim be made within six months of payments.

187. All expenses incurred in passing goods through Custom House, to be borne by Importer or Exporter.

188. Importer or Exporter not entitled to claim compensation for loss or injury to goods, unless occasioned by some wilful act or neglect of a Customs Officer.

189. Chief Customs Authority may fix the rate to be charged on goods left on Custom House wharf or premises.

190. Act not to interfere with the levy of anchorage or harbour dues, or of special Duties on Opium, Tobacco, Gunja, Spirits, or Salt.

191. Duplicates of Custom-House Documents may be granted, and amendments made thereon, on payment of a fee.

192. No Customs Officers to be compelled to serve on juries or inquests.

Offences and Penalties.

193. Goods unlawfully discharged from or received by a tug-steamer or pilot-vessel liable to confiscation, and Master of such steamer or vessel to a penalty of 1,000 Rupees.

194. Person unlawfully landing or shipping goods, and person found in a vessel liable to confiscation under Section 13, liable to a penalty of 1,000 Rupees.

195. Vessel found in ballast without a due account of the cargo brought, liable to confiscation.

196. Tackle, &c., to be included in confiscation of vessel; and when goods are confiscated, the packages and their contents, as well as the conveyances used, are to be included therein.

197. Port-clearance may be refused until penalty due from owner be paid; and goods may be detained, until payment of penalty due from person passing them.

198. Persons reasonably suspected of an offence may be detained by any Customs Officer.

199. Vessel and goods liable to confiscation may be seized, and person liable to be detained may be detained in any place.

200. Vessel and goods liable to confiscation to be delivered to proper Officer.

201. Person detained to be taken before nearest Magistrate or Officer in charge of Custom House.

202. Person so taken before a Magistrate may be detained or admitted to bail.

203. Person not detained at time of committing offence or escaping after detention, liable at any time to be detained and taken before a Magistrate.

204. Persons employed on the crew of any of H. M.'s Ships, when detained under this Act, to be secured on board by Commanding Officer until warrant be procured.

205. In cases of seizure or detention, Officer bound, if required, to give in writing a statement of reasons.

206. Goods liable to confiscation, if seized on suspicion of being stolen, to be kept at Police Station for enquiry, and on conclusion of enquiry to be conveyed to the nearest Custom House under a penalty of 100 Rupees.

207. Conveyances may be searched, on reasonable grounds, for smuggled goods.

208. Magistrate may, on application, issue a search warrant for dutiable or prohibited goods, to be executed as a search warrant under the Code of Criminal Procedure.

209. Customs Officer may search any person on reasonable grounds. If person searched deny having dutiable or prohibited goods, and such goods be found, they shall be liable to confiscation and person searched to a penalty of three times the value thereof.

210. Persons about to be searched may demand to be taken before nearest Magistrate or Officer in charge of Custom House, who may discharge such person, if there be no reasonable ground for search. Females to be searched by females only.

211. Customs Officer requiring person to be searched without reasonable ground, liable to a penalty of 100 Rupees.

212. Customs Officer guilty of wilful breach of the provisions of this Act, liable to simple imprisonment for two years, or fine, or both.

213. Customs Officer committing or conniving at frauds on Customs Revenue, liable to imprisonment of either description for two years, or fine, or both.

214. No action or proceeding against Customs Officer to be commenced without a month's previous notice, nor after three months from cause of action.

215. Person obstructing Customs Officer liable to imprisonment of either description for six months, or a fine of 1,000 Rupees or both.

216. Person making a false declaration, or counterfeiting, falsifying, or destroying any document, seal, or signature, or refusing to produce document or answer questions, liable to a penalty of 1,000 Rupees.

217. Person making declaration of the value of Goods, without authority to do so, liable to a penalty of 1,000 Rupees.

218. Unless otherwise provided, Officer in charge of Custom House may adjudge confiscations, penalties, or increased rates of Duty.

219. Local Government may empower any Customs Officer to adjudge confiscations, penalties, and increased rates of Duty—to the extent, if a Deputy, of goods of the value of 1,000 Rupees and of a penalty of 100 Rupees, and if an Assistant Collector, of goods of the value of 100 Rupees and of a penalty of 10 Rupees.

220. Adjudications made by Customs Officers to be subject to appeal to Chief Customs Authority.

221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

222. Offences not cognizable under Section 218 may be adjudicated in a summary way by a Magistrate.

223. Chief Customs Authority may remit or commute penalties.

224. Penalties adjudged by Customs Officers may be levied by sale of goods in charge. If they cannot be so realized, they may be recovered by any Magistrate as if adjudged by himself.

225. Limit of imprisonment in default of payment of penalty adjudged by a Magistrate. Penalties may at any time be enforced by distress and sale.

226. Imprisonment in default of payment of penalty, to terminate on payment or recovery thereof.

227. Imprisonment to terminate, when the portion suffered is not less than proportional to the penalty remaining unpaid.

228. Property confiscated under Sections 218 or 219 to vest in Her Majesty.

229. Out of the proceeds of confiscations and penalties, Chief Customs Authority may grant rewards.

230. Repealed.

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Preamble.

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:

Title.

I. This Act shall be called the Consolidated Customs Act.

II. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation.

III. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

"British India."

1. The words "British India" denote the Territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vict., c. 106 (entitled "An Act for the better government of India"), except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the person authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-

General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General in Council published in the Official Gazette, be authorized to exercise the powers vested by this Act in a local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place" denote the persons authorized to exercise, under any local Government, the chief control in the Department of Customs in any Presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of Customs of the Port" denote the Executive Officer of highest rank in the Department of Customs in any Port.

"Officer in charge of the Custom House."

5. The words "Officer in charge of the Custom House" include every Officer of Customs who is for the time being authorized to have separate charge of a Custom House.

"Magistrate."

6. The word "Magistrate" includes every Officer exercising the powers of a Magistrate.

"Free Port."

7. The words "Free Port" denote any Port at which no Duties of Customs are leviable.

"Foreign Port."

8. The words "Foreign Port" include any Port situated beyond British India, any Free Port.

"Foreign Goods."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.

"Vessel."

10. The word "Vessel" includes anything made for the conveyance by water of human beings or property.

"Coasting Vessel."

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India not being a Free Port, and another Port in British India not being a Free Port, without touching at any intermediate Foreign Port.

"Master or Commander."

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel.

"Warehouse."

13. The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and securing of goods entered to be warehoused without payment of Duty on the first entry thereof.

Number.

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

15. Words importing the masculine gender include females.

General Rules.

Making, issuing, and publishing of rules.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette.

Also rules respecting passengers' baggage and mails.

V. Any rules as made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Appeals how and by whom to be adjudicated.

VI. If any dispute shall arise between any Officer of Customs, and any Master or Commander of a vessel, or importer, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any Duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the local Government, acting under the general instructions of the Governor-General of India in Council.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

Local Government to appoint necessary Officers.

VII. The local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the local Government which appointed him.

Local Government may delegate its powers to other Customs Authority. Subordinate Officers liable to be suspended or dismissed by the authority appointing them.

VIII. The local Government may delegate to any Authority within its jurisdiction in the Department of Customs, the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him.

The Collector of Revenue of District to perform duties of Customs Officer where there is no separate Customs Officer.

IX. At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector, shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

X. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods; and may declare the bounds and extent of any such Wharf; and may from time

to time alter the limits of any Port or Wharf; and may alter the name thereof. Every Port and Wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such Port or Wharf, until the local Government shall otherwise declare by notice in the Official Gazette.

Existing ports and Wharves to continue in use until otherwise ordered.

XI. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port in British India shall be a Free Port at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Governor-General in Council may declare Free Ports.

XII. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port for the purposes of Section 18, of Section 141, and of Sections 149 to 160 of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time, by notice in the Official Gazette, revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

Also that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

XIII. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea for the purpose of being landed or shipped at any Port or place which, at the date of such landing, shipment, attempt, or bringing, shall not have been declared to be or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Penalty for landing or shipping goods at any unauthorized port.

XIV. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the local Government shall otherwise declare by notice in the Official Gazette.

Local Government may declare Warehousing Ports and places.

Existing Ports to continue in use until otherwise declared.

XV. In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited

Approval, appointment, and licensing of Warehouses.

Existing Warehouses to continue in use until otherwise ordered.

without payment of Duty on the first entry thereof; and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES.

Import Customs.

XVI. Duties of Customs shall be levied on goods imported by Sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

XVII. Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No Duties on goods carried from one Indian Port to another not a Free Port.

Proviso as to Opium, Salt, and Spirits.

XVIII. No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other Port in British India, not being a Free Port: Provided that nothing in this Section shall apply to Opium or Salt, or to Spirits manufactured after the English method.

Local Government in certain cases may authorize exemption from payment of Duty.

XIX. It shall be lawful for the local Government to authorize the Chief Customs Authority of any Presidency or place, to exempt, by special order, from the payment of Duty, under stated circumstances of an exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

Baggage in use.

XX. It shall be lawful for the Officer in charge of a Custom House to pass free of Duty, at his discretion, any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section 4 of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

GENERAL PROVISIONS.

Prohibitions and restrictions.

XXI. The importation into or exportation from British India of the goods enumerated in the following Clauses is prohibited:—

1. Any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copyright subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be the Queen's coin of India, but is not of the established standard in weight or fineness.

3. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

Importation, without license, of Arms.

XXII. The importation into British India of Arms or Ammunition, except under a license from the Governor-General of India in Council, or from some Officer authorized in

and Ammunition, prohibited.

Proviso.

that behalf by the Governor-General of India in Council, is prohibited. Nothing in this Section shall apply to fowling pieces and sporting powder *bonâ fide* imported by any person in reasonable quantities for his own private use.

Governor-General may prohibit or restrict importation or exportation of goods.

XXIII. It shall be lawful for the Governor-General of India in Council from time to time, by notice in the Official Gazette, to prohibit or restrict the importation or exportation of any particular class of goods.

Goods imported contrary to prohibition liable to confiscation, and persons concerned to penalty.

XXIV. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into, or exported from, British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods, subject to a Duty or restriction in respect of importation or exportation, be found, either before or after landing or shipment, to have been concealed in any manner on board of any vessel within the limits of any Port in British India; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,— such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding 1,000 Rupees.

Importation exportation, and warehousing.

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General of India in Council for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or notice, may, under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof.

Owner, &c., to declare real value of goods in bill of entry or clearance, and if necessary, to produce invoice, &c.

XXVI. On the importation into, or exportation from, any Port in British India of any goods not liable to Duty, or liable to fixed Duties according to weight or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom House to require any such person, or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document, or to furnish any such information, so required by such Officer.

Under-valued goods how to be dealt with.

XXVII. If, upon the examination of any goods entered for Duty and chargeable with Duty upon the value thereof, but **for which a specific value has not been fixed by the local Government with the sanction of the Governor-General of India in Council*, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice, in writing, to the person entering the goods, of their detention and of the value thereof as estimated by by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government. If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion, not exceeding one-half of the overplus, shall, at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation, on payment of such increased rate of Duties, or on such other terms, as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods.

Goods brought to be passed through the Custom House, liable to confiscation in case of discrepancy, &c.

XXVIII. If it be found, when any goods are entered at, or brought to be passed through, a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the donominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality or quantity; or that goods not stated in the entry or application have been fraudently concealed in or mixed with the articles specified

* For the words in italics, the following words were substituted by Act XVII., 1867, Section 3, "For which a specific value is not fixed by the Indian Customs Duties Act, 1867."

therein, or have been packed to deceive the Officers of Customs,—such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Date of importation how to be determined.

XXIX. If upon the first levying, repealing, enhancement, or reduction of any Duty, or upon any charge of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

Date of exportation how to be determined.

XXX. If, in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Re-imported articles of country produce to be deemed Foreign.

XXXI. If goods produced or manufactured in British India be imported into any Port in British India from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the Duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof: Provided that, if such importation shall take place within three years after the exportation of such goods, and it shall be proved, to the satisfaction of the Officer in charge of the Custom House, that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs Authority of the Presidency or place shall in any case ortherwise direct by special order.

Proviso.

Stations may be appointed for Customs Officers to board and also land from ship.

XXXII. The Chief Customs Authority of any Presidency or place may, from time to time, appoint, in any Port in British India, stations or places at which vessels, arriving at, or departing from, such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port.

Penalty for infraction.

Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding 500 Rupees.

IMPORTATION.

Places may be fixed by the local Government beyond which in-

XXXIII. It shall be lawful for the local Government of any Presidency or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or

ward bound vessels are not to proceed until a Manifest has been delivered.

in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the Pilot, Officer of Customs, or other person duly authorized to receive the same, a Report or Manifest containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel), and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

On failure, Master to be liable to penalty.

XXXIV. If, in any River or Port wherein a place has been so fixed by the local Government, the Master or Commander of any vessel arriving from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel,—such Master or Commander shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Penalty for not reporting when vessel anchors below the reporting Station.

XXXV. If, in any River or Port wherein a place has been fixed by the local Government under Section 33 of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section. If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Penalty for not delivering Report or Manifest within 24 hours after anchoring.

XXXVI. If, after any vessel arriving from any Foreign Port or place, shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section 33 of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver, as required by that Section, his Report or Manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Penalty for Pilot, &c., not receiving Report or Manifest.

XXXVII. If any Pilot, Officer of Customs, or other person authorized to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall, in every such case, be liable to a penalty not exceeding 500 Rupees.

Penalty for vessel removing from place of mooring, or unlading, without due authority.

XXXVIII. If any vessel, arriving from any Foreign Port or place at any Port in British India, shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII. of

1855 *(for the regulation of Ports and Port-dues,)* directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Stations may be appointed for Officer of Customs to board vessels arriving from Foreign ports.

XXXIX. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port.

Penalty for not bringing to at boarding Station.

XL. If the Master or Commander of any vessel, arriving at any Port in British India from any Foreign Port or place, shall, when so required under the last preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Officer in charge of Custom House may depute Officers of Customs to board ships.

XLI. It shall be competent to the Officer in charge of the Custom House at any Port in British India, at any time to depute, at his discretion, one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it be otherwise ordered by the Officer in charge of the Custom House: Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Proviso.

Penalty for not receiving Officer of Customs on board.

XLII. Every Master or Commander of a vessel, who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty, not exceeding 500 Rupees, for each day during which such Officer shall not be received on board, and the vessel shall not be allowed to enter until the penalty is paid.

Servant to be received with the Officer.

Accommodation of Officer and servant.

XLIII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall, in every such case, be liable to a penalty not exceeding 500 Rupees.

Customs Officers to have free access to every part of the ship, and may seal and secure goods.

XLIV. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box,

Officer in charge of Custom House may authozize opening of locks.

place, or closed receptacle in any such vessel be locked, and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall be competent to the Officer bearing the same to require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Goods found concealed liable to confiscation.

XLV. If any Master or Commander of a vessel shall refuse to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched, when so required by an Officer of Customs bearing a written order to search; or if an Officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission,—in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding 1,000 Rupees.

Penalty for Master resisting search, &c.

XLVI. No vessel arriving in any Port in British India from any Foreign Port or place, shall be allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett or other paper, which he shall know or have reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting, on receipt of the original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, for the unshipping of Bullion or Treasure.

Bulk not to be broken until Manifest, &c. delivered, and ship entered at Custom House.

XLVII. The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by such Officer. If any such bill of lading or copy thereof shall be false;

Master, if required, to deliver bill of lading, &c., to Officer in charge of Custom House.

Penalty for false entry, fraudulent alteration, &c.

or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading, or in any bill of lading of which a copy shall be so produced, shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced, by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of the cargo shall have been staved, destroyed, or thrown overboard; or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House;—in every such case the Master or Commander shall be liable to a penalty not exceeding 1,000 Rupees.

Goods not to leave ships unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest, liable to confiscation or extra Duty.

XLVIII. No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

Penalty for not being able to account for missing or deficient package, &c.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding 500 Rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, &c.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House, who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

Period to be allowed for landing import Cargo.

LI. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the landing of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so

Consequence of exceeding same.

allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period.

LII.—LIV. Repealed by Act XVII., 1869, *Section* 1, *and other Sections substituted for them.*

Goods may be landed at any time after arrival, with consent.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the lading of such package or parcel. If any package or parcel so carried to the Custom House shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section 52 of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

Procedure if Duties not paid within four months after entry of vessel.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, rent, and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied: first, to the payment of freight, primage, and general average; next, to the payment of Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

Goods if not cleared within two months from the date of landing, to be sold.

LVII. If any goods be not cleared for home consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of the proceeds.

Goods not to be landed on Sundays, holidays, &c., without permission; and only within fixed hours, &c.

LVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday, or on any holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place; nor, except with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees; and all goods so unauthorizedly removed shall be liable to confiscation.

Penalty.

Goods removed from ship and not forthwith landed, to be liable to confiscation.

LIX. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to, and landed at, the Wharf or other place appointed for the landing of such goods. If such goods be not so removed or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods landed at any other than the appointed place may be confiscated.

LX. No goods which shall have been discharged from any vessel under the authority of an Officer of Customs, shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed, shall, previously to their being landed, be tran-shipped into any other boat without the permission of an Officer of Customs. Any goods landed or transshipped contrary to the provisions of this Section shall be liable to confiscation.

Goods landed without a boat-note liable to be confiscated, and person in fault to penalty.

LXI. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

Entry for home consumption.

LXII. The importer, owner, or consignee of any goods liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form, and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the Presidency or place. The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry: Provided that, if the importer, owner, or consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section 27 of this Act for cases of obvious error, no re-valuation of goods assessed for Duty on the declared value thereof, shall be allowed after such goods shall have been removed from the Custom House.

Penalty for delivering goods without entry.

LXIII. If, without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding 500 Rupees: Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed, and delivered under such rules as shall, from time to time, be made under Section 4 of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or Dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Passengers' baggage.

Penalty for the removal of goods after landing and before due entry.

LXIV. If, after any goods have been landed, and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the revenue, such goods shall be liable to confiscation; or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding 1,000 Rupees for every missing or deficient package of unknown value.

Abatement of Duty on account of damage.

LXV. No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom

House Appraiser, or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

Disposal of damaged goods, and levy of Duty thereon.

LXVI. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the Official Gazette, be sold by public auction at such time (within thirty days from the date of entry,) and at such place as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever, except of so much as represents the Duties payable on the importation thereof. On goods, the value of which shall have been fixed under the provisions of Section 179 of this Act, no abatement of Duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on Wines, Spirits, or Beer, or on any other Articles on which Duties are levied on quantity and not on value.

Goods derelict, &c., to be treated as Foreign.

LXVII. All goods derelict, jetsam, flotsam, and wreck, brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

LXVIII. The Officer in charge of the Custom House, whenever he shall see fit, may require that any goods brought by Sea, and stowed in bulk, shall be weighed or measured on boardship before landing, and may levy Duty according to the result of such weighing or measurement.

No Duty on portion of import cargo intended for another Port, ship's stores, &c.

LXIX. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such Cargo or ship's stores so retained shall not be subject to the payment of Duty: Provided that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel as cargo or ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

WAREHOUSING.

Deposit of goods in Warehouse without payment of Duty.

LXX. It shall be lawful for any person who has imported any goods into any Warehousing Port in British India to deposit such goods, without payment of Duty on the first entry thereof, in any public or private Warehouse, approved, appointed, or licensed under this Act.

Public Warehouses.

LXXI. Every building in any warehousing Port or place which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public Warehouse for the reception of goods under this Act. Every public Warehouse shall be under the lock and key of a Warehouse-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The Warehouse-keeper shall, to the extent provided in Sections 76 and 93 of this Act, and not otherwise, be responsible for the charge of all goods deposited in his Warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

Chief Customs Authority to decide what goods may be deposited, and on what terms.

LXXII. The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public Warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent so fixed for every public Warehouse shall be placed in a conspicuous part thereof.

The Chief Officer of Customs may license private Warehouses at any Warehousing Port or place.

LXXIII. At any warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private Warehouses for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private Warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such Warehouse is situated.

Form of application for license for private Warehouses.

LXXIV. Every application for a license for a private Warehouse shall be in writing, and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

Form of application for the admission of goods into Warehouse.

LXXV. Every application for the admission of goods into any public or private Warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

No goods to be warehoused without payment or assessment of Duty.

The keeper or license-holder to be answerable for weight or gauge.

LXXVI. No goods shall be warehoused without payment of Duty on the first entry thereof, unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption. The Warehouse-keeper in respect of goods lodged in a public Warehouse, and the person who obtained the license in respect of goods lodged in a private Warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section 95 of this Act. Nothing in this Section shall

Saving of the re-assessment of ware-

housed goods on clearance for home consumption.

interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section 29, of this Act.

Bond under what circumstances to be taken. Form and conditions.

LXXVII. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

Terms of bond.

LXXVIII. Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

Period for which goods may remain warehoused under bond.

LXXIX. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in Warehouse for a period not exceeding three years, without being liable to the demand of Import Duty.

Penalty for an improper carrying into Warehouse.

LXXX. If any goods entered to be warehoused shall be carried into the Warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding 1,000 Rupees.

Procedure in respect of goods to be warehoused.

LXXXI. When the provisions of Sections 75, 76, 77, and 78, shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the Warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the Warehouse or place in the Warehouse wherein they are to be deposited, shall be specified. On receipt of the goods into the Warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed.

Proviso as to confiscation.

If any goods entered to be warehoused shall be withheld, or removed from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

Mis-description of goods.

LXXXII. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof tending to injure the revenue, be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental. If the quantity or value of any goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Packages, &c., to be marked and numbered before admission.

LXXXIII. No package, butt, cask, or hogshead, shall be admitted into any public or private Warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they shall have been imported, except as provided in Section 92 of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the Warehouse in which they were originally deposited, except in the presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Proviso as to confiscation.

Penalty for neglecting to stow goods properly in Warehouse.

LXXXIV. If the keeper of any public Warehouse, or the person who has obtained a license for any private Warehouse, shall neglect to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding 50 Rupees.

Or for neglecting to produce goods when required.

LXXXV. If the keeper of any public Warehouse, or the person who has obtained a license for any private Warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such Warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable, not only to pay the Duties due on such goods, but also to a penalty not exceeding 50 Rupees in respect of every package or parcel so missing or deficient.

Goods not duly warehoused, or concealed or removed, may be confiscated.

LXXXVI. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in, or removed from the Warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Officer in charge of Custom House may cause packages lodged in Warehouse to be opened.

LXXXVII. The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private Warehouse to be opened, weighed, or otherwise examined as he shall direct; and after any goods shall have been so opened or examined, to

cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

License-holder refusing access to Customs Officers.

LXXXVIII. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private Warehouse licensed under this Act; and if the person who has obtained a license for any such private Warehouse shall not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding 1,000 Rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

When bond shall become due for Duty on goods in private Warehouse deprived of license.

LXXXIX. Every bond executed for Duty chargeable on goods deposited in any private Warehouse, shall become due, and may be put in suit for the levy of such Duties and other demands of Customs, after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the license for such Warehouse is withdrawn.

Owners to have access to warehoused goods in business hours.

XC. Any importer, owner, or consignee of goods lodged in a public or private Warehouse under this Act, or the agent of any such importer, owner, or consignee, shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

Penalty for importer or owner of warehoused goods clandestinely gaining access.

XCI. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, shall clandestinely open any Warehouse, or, except in presence of the proper Officer of Customs, gain access to his goods, such importer, owner, consignee, or agent, shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Goods may be sorted, re-packed, &c. in Warehouse.

XCII. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the Presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or

after warehousing, to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House shall permit); and also to fill up any casks of Wine, Spirits, or Beer from any casks of the same secured in the same Warehouse; and also to mix any Wines of the same sort, erasing from the casks all import brands, unless the whole of the Wine so mixed be of the same brand; and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity; and after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty,) to be destroyed, and may remit the Duty payable thereon.

Compensation for loss or injury admissible only in case of wilful neglect, &c.

XCIII. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public Warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such Warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the Warehouse-keeper or of an Officer of Customs.

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.

XCIV. If any goods warehoused or entered to be warehoused, or entered to be delivered from a Warehouse, shall be lost or destroyed by unavoidable accident or delay, either on board of any vessel, or in landing, or during receipt into the Warehouse, or in the Warehouse, the Chief Customs Authority of the Presidency or place may remit the Duties due thereon, or return them if paid: Provided that, if any goods be so destroyed in a private Warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a Warehouse shall receive damage through unavoidable accident, they shall be re-assessed for Duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import Duty to be on the quantity or value registered on importation.

Proviso as to wines, spirits, beer, or salt.

XCV. The Import Duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever: Provided that, if it shall appear, at the time of clearing any Wines, Spirits, Beer, or Salt from any Warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time

to time be prescribed in this behalf by the local Government, and notified in the Official Gazette :—

Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.

For any time not exceeding	6 months	...	2½ per Cent.
Exceeding 6 months and not exceeding	12 months	...	5 „
Exceeding 12 months and not exceeding	18 months	...	7½ „
Exceeding 18 months and not exceeding	2 years	...	10 „
Exceeding 2 years and not exceeding	3 years	...	12½ „

When Salt is warehoused in a Government Golah or Store-house under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the Duties on Salt werehoused in a private Golah or Store-house, shall be prescribed from time to time by the local Government, and notified in the Official Gazette.

Penalty for deficiencies in a private Warehouse, if beyond ullage and wastage allowed.

XCVI. If any goods lodged in a private Warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such Warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient: Provided that nothing in this Section shall apply to any Wines, Spirits, Beer, or Salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

Penalty for excess, in private Warehouse, over registered quantity.

XCVII. If any goods lodged in a private Warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

Goods not to be removed from Warehouse, except after application to the Officer in charge of the Custom House.

XCVIII. No goods shall be removed from any Warehouse, except after application, to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place; or for home consumption, in like manner as other goods are passed through the Custom House; or for removal to another Warehouse, as provided in Sections 105, 106, 107, and 108, of this Act.

Form of application for removal of goods. Twenty-four hours' notice to be given.

XCIX. Application to remove goods from any Warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

C. If any goods shall be taken out of any Warehouse otherwise

Penalty, if goods be taken out of Warehouse without entry.

than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees. If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

Expenses of carriage, packing, &c., to be borne by owners.

CI. The expenses of carriage, packing, and stowage of goods on their reception into, or removal from, a Warehouse, shall, if paid by the Officer in charge of the Custom House or by the Warehouse-keeper, be chargeable on the goods, and be defrayed by the importer owner, or consignee, in like manner as the Duties of Customs.

Payment of rent and Warehouse dues. In case of failure, goods may be sold, &c.

CII. If goods be lodged in a public Warehouse, the importer, owner, or consignee, shall further pay monthly, on receiving a bill or written demand for the same from the Warehouse-keeper, the rent and Warehouse dues. If any such bill for rent or Warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), to cause to be sold by public auction, after due notice in the Official Gazette, such sufficient portion of the goods as he may select. Out of the proceeds of such sale, the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee; provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of the proceeds.

On goods being removed otherwise than for export, &c., full Duty to be paid.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the Warehouse, otherwise than for removal to another Warehouse as provided in Sections 105, 106, 107, and 108 of this Act, or for exportation by Sea to some Foreign Port or place; or if any goods shall not have been cleared from the Warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in Warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

On failure to pay Duty, proceedings may be taken either against goods, or under the bond, and goods may be sold after ten days if demand not paid.

CIV. If any importer, owner, or consignee shall fail to pay any Duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such importer, owner, or consignee, or to cause such portion as to him shall seem fit of the Warehouse goods, on

account of which the Duty or penalty is demanded, to be detained in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand, after due notice in the Official Gazette. The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods; provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods, in the manner above provided, for any demand of Customs Duties or penalty claimed thereon.

Disposal of the proceeds.

CV. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee, may, with the permission of the Chief Officer of Customs of the Port, and on such conditions, and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private Warehouse to another Warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Bonded goods may be removed from Warehouse to Warehouse on application in the prescribed form.

CVI. Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again re-warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

Bonded goods may be removed from one Port to another.

Procedure.

CVII. When permission is granted for the removal of any goods from one warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal or of

Officers at Port of removal to transmit account of goods. Owner to execute bond for due arrival, &c.

the Port or place of destination, as shall best suit the residence or convenience of the person interested in such removal. If such bond shall be taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place, shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Remover may enter into a general bond.

CVIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one Warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

Goods subject on arrival at Port of destination to the same laws as goods on first importation.

CIX. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last-mentioned goods.

Goods brought into one but intended for another Indian Port, may be trans-shipped without payment of Duty, on security.

CX. When goods are brought in any vessel to any Port in British India, and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-shipment shall enter into a bond, with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods removed under the provisions of Sections 106 and 107 of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

On arrival at destination of goods removed under Section 110, they may, after re-warehousing, be entered for exportation or home use on payment of Duties.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place, or to pay Duty thereon for home consumption without actually lodging the goods in the Warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be

entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such Warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the Warehouse.

Removal of goods to be noted on the bond with particulars.

CXII. When any goods warehoused as provided in this Act shall be removed from any public or private Warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.

CXIII. A register shall be kept of all bonds entered into for Customs Duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section. When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from Warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed, or who shall be authorized to receive it.

Duty on warehoused goods to be settled within three years.

CXIV. In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Provisions as to private Warehouses applicable to Bengal Bonded Warehouse.

CXV. All the provisions of this Act relating to private Warehouses shall be applicable to all Warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

EXPORTATION.

Permission for entry outwards to be obtained before export cargo is put on board.

CXVI. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any vessel at any Port in British India before she shall have been so entered outwards at such Port, the Master or Commander of such vessel shall be liable to a penalty not exceeding 1,000 Rupees.

Penalty.

Period allowed for the shipment of export cargo.

CXVII. A period of fifteen working days, after the expiration of the period allowed for discharging import cargo under Section 51 of this Act, or such further period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs,) for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted,) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander. If the Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding 1,000 Rupees; and the goods if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Consequence of exceeding same.

Penalty for lading in the absence of Customs Officer.

Goods not to be shipped except on proper days and places, nor until after entry and clearance.

CXVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped, or water-borne to be shipped, for exportation from any Port in British India; nor, except with such written, permission, shall any goods be so shipped or water-borne to be shipped, on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port, except a Wharf duly appointed for such purpose; nor without the presence of the proper Officer of Customs; nor before due entry outwards of the exporting vessel, and of the goods; nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped, or water-borne to be shipped, contrary to any of the provisions of this Section; shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees; and any goods so unauthorizedly shipped, or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Penalty.

Customs Officer may open package and examine goods shipped.

CXIX. It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Officer in charge of Custom House may send

CXX. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send, at his discretion, one or more Officers of

Officers of Customs on board of any vessel clearing from Port.

Customs on board of any vessel clearing from such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House: Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

And may allow shipment without presence of Officer.

CXXI. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding 500 Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

Penalty for refusal to receive a deputed Officer on board.

CXXII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section 120 of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall, in every such case, be liable to a penalty not exceeding 500 Rupees.

One servant to be received on board with each Officer of Customs.

Accommodation of Officer, &c.

CXXIII. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Exporter to deliver shipping bill before any goods are shipped.

CXXIV. Before any warehoused goods, or goods subject to Duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the Duty leviable on such goods, as the Officer in charge of the Custom House shall direct, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such Officer.

On entry outwards, bond-note to be given for the shipping and landing.

CXXV. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel,

Boat-note.

Penalty for the non-delivery of a boat-note.

or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding 500 Rupees.

No vessel to depart without a Port-clearance.

CXXVI. No vessel, whether laden, partially laden, or in ballast, shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel; and every Master or Commander of a vessel so applying for Port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master or Commander shall be liable to a penalty not exceeding 500 Rupees. If any vessel shall actually depart without a Port-clearance, the Master or Commander shall be liable to a penalty not exceeding 1,000 Rupees; and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of departure without Port-clearance, purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Penalties.

No Pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the local Government, no Pilot shall take charge of any vessel proceeding to Sea, unless the Master or Commander of such vessel shall produce a Port-clearance. Every person convicted before a Magistrate of an infraction of this rule, shall be liable to a penalty not exceeding 1,000 Rupees.

Penalty.

The Master, on applying for a Port-clearance, to deliver a Manifest and Certificates.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate, according to such form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the Manifest, shall grant a Port-clearance to the Master or Commander, and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

Port-clearance may be refused if all documents are not delivered, and charges paid.

CXXIX. It shall be competent to the Officer in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master or Commander thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House shall direct.

Certain goods, if entered in the Manifest and not shipped, liable to confiscation.

Penalty for the shipment of goods not entered in Manifest, &c.

CXXX. If any goods liable to Duty on importation, or taken from a Warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper Officer as short-shipped, such goods shall be liable to confiscation. If any goods not enumerated in such Manifest shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding 50 Rupees in respect of every package of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the Master or Commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

Additional charge on goods passed after the Port-clearance has been granted.

CXXXI. When goods are passed through the Custom House for shipment on an application presented after Port-clearance shall have been granted, two per cent. upon the market value of any such goods not liable to Duty, or liable to specific Duties according to weight or quantity only, or to Duty according to value, and upon the Tariff value of goods so passed which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable: Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

Duty on goods re-landed or not shipped may be returned.

Proviso.

CXXXII. Upon an application being made to the Officer in charge of the Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such Duty was paid: Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port.*

Stations may be appointed at which outward bound vessels shall bring to, to land Officers of Customs.

CXXXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure.

* Modified by Section 1 of Act X., 1868.

Penalty for not bringing to at prescribed Station.

CXXXIV. If the Master or Commander of any vessel departing from any Port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any Presidency or place under the last preceding Section, such Master or Commander shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

CXXXV. If any vessel, after having cleared from any Port in British India, shall, without having discharged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House; who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board. Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export. All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter and land goods under the Import rules.

CXXXVI. In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein, to enter such vessel and to land such cargo under the rules for the importation of goods. In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper; and if any goods, on account of which drawback has been paid, be not found on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

Penalty for deficiency.

DRAWBACK.

Amount of drawback allowable on re-export.

CXXXVII. Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback and, one-eighth shall be retained as reserved Duty:

Conditions for the granting of a drawback.

Provided that in every such case the goods be indentified to the satisfaction of the Officer in charge of the Custom House; and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall, on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the vessel as ship's stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

Time within which drawback must be claimed.

CXXXVIII. No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

CXXXIX. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

Not drawback on goods not entered in Export Manifest.

CXL. No drawback shall be allowed upon goods not included in the Export Manifest.

No drawback allowed except on goods exported out of India.

CXLI. No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port, not being a Free Port, are thence again re-exported by Sea to a Foreign Port or place: Provided that in every such case the goods be indentified to the satisfaction of the Officer in charge of the Custom House atthe Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

Proviso.

Declaration to be made by parties claiming drawback.

CXLII. Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed, and are not intended to be re-landed at any Port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

CXLIII. If any goods, on the entry of which for re-export drawback shall have been paid, shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under

Section 135 or Section 136 of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation; and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose orders or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding 1,000 Rupees.

Drawback of Duties on Wine allowed for Officers of the Navy.

CXLIV. A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry thereof. The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below, that is to say:—

	Gallons.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon	105

The name and rank of Officer claiming shall be declared.

CXLV. Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed. All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of Wine from one Naval Officer to another, &c.

CXLVI. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer; or the re-landing and warehousing of any such wine for future re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption.

Wine not laden by permission may be confiscated.

CXLVII. If any such wine be not laden on board of the ship for which it was intended or be unladed from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

CXLVIII. Provisions and stores for the use of Her Majesty's

Provisions and stores for Her Majesty's Navy exempt from Duty.

Navy shall, in like manner, be passed free of Duty; and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

COASTING TRADE.

No Duties on goods carried in coasting vessel.
Proviso.

CXLIX. No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel: Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty; or to goods removed in bond.

No drawback for goods shipped in a coasting vessel.

CL. No drawback shall be allowed for any goods shipped in any coasting vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

Local Government may regulate carriage of goods coastwise.

CLI. The local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British India to be so carried; also in what cases, and in what cases only, goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If in contravention of any such rules so published, any goods shall be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive,—the Master or Commander of such vessel shall be liable to a penalty not exceeding 1,000 Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

Penalty.

Times and places for shipping of goods.

CLII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be un-shipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India; nor, except with such written permission, shall any goods be so un-shipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority

shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a wharf duly appointed for such purpose; nor without the presence or authority of the proper Officer of Customs. Any person who shall cause or suffer any goods to be un-shipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall, in every such case, be liable to a penalty not exceeding 500 Rupees; and any goods so unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

Penalty.

CLIII. The Master or Commander of every coasting vessel shall keep, or cause to be kept, a cargo-book, in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of landing such Master or Commander shall enter, or cause to be entered, in such book, the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein, or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book, the respective days on which such goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such Master or Commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board,—the Master or Commander of such vessel shall be liable to a penalty not exceeding 500 Rupees.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

Penalty for breach of rules.

CLIV. Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof, in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding 500 Rupees.

Coasting vessels to deliver account and obtain Port-clearance before leaving Port of lading.

Penalty for a false account.

Officer in charge of Custom House may require a bond before granting a Port-clearance.

CLV. The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate, from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Penalty for failure to produce certificate.

Grant and revocation of general pass.

CLVI. The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting steam vessel at any Ports of despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such steam vessel, or to any of the crew on board.

Time for delivery of pass, and penalty for failure.

CLVII. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding 200 Rupees.

Goods on coasting vessel, if excisable, not to be unladen without due permission.

CLVIII. If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise.

Penalty for breach in respect of lading, carrying coastwise, or unlading.

CLIX. If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance thereof, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding 500 Rupees.

Customs Officers may go on board and examine any coasting vessel.

CLX. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought

Penalty for refusal to produce document.

to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding 200 Rupees.

CARGO BOATS.

Government may prohibit the plying of any unlicensed cargo-boats.

CLXI. It shall be lawful for the local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered, shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Goods found in unlicensed boats to be confiscated.

Issue of licenses.

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for, and to make registration of, cargo-boats, under such rules, and on payment of such fees, as the local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

SPIRITS.

Rules for removal of spirits from distillery without payment of Duty, and for exportation thereof.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which, and the rules under which, spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirits, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other Port in British India, not being a Free Port, but proof of the landing whereof and of payment of Duty of Customs whereon at the Port of destination shall not be furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term, not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that Duty has been paid.

Spirits for export to be taken direct from Distillery to Custom House under pass.

CLXIV. Spirits for exportation under bond for the Duty of Excise shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Officers of Excise.

Rules for the exportation of spirits.

CLXV. Spirits brought to the Custom House for exportation by Sea shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed for spirits on which Duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

CLXVI. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette

Drawback of Excise Duty on spirits manufactured after the English method.

CLXVII. A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Section 124 of this Act, shall be allowed by the Officer in charge of the Custom House at the Port of exportation: Provided that the exportation be made within one year from the date of payment of such Duty of Excise, and that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

CLXVIII. No drawback shall be allowed on spirits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under Section 163 of this Act, to export from any such Port to any other such Port, under bond for the Duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

CLXIX. Spirits manufactured in British India after the English method and exported under bond for the Duty of Excise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Customs at the ordinary rate fixed for Duties on spirits of the like kind and strength imported into such Port.

Rum Shrub, &c, how to be charged with Duty.

CLXX. Any Rum Shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting spirits

May be exported under the same rules as spirits.

manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

CLXXI. Spirits brought to the Custom House for exportation under bond for the Duty of Excise may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit for every such payment shall be given on settlement of the bond to which it relates.

Condition of Drawback and remission of Duty on spirits.

CLXXII. No drawback shall be allowed for any spirits on which Duty has been paid, nor shall the Duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and in a vessel whereon an officer of Customs has been appointed to superintend the receipt of export cargo. Spirits Shipped for exportation shall not be re-landed without a special pass from an Officer of Excise, in addition to the usual order of the Officer in charge of the Custom House.

Re-land of spirits shipped.

Penalty for irregularly re-landing spituous liquors.

CLXXIII. Every person who, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous lipuor shipped for exportation, shall for every such offence be liable to a penalty not exceeding 500 Rupees; and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

AGENTS.

Agents must be duly authorized.

CLXXIV. No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding 5,000 Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding 500 Rupees.

Penalty for acting without due authority.

Agent to produce authority if called on.

CLXXV. When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business. The clerk or servant or known agent of any person or of any Mercantile Firm may transact business at the Custom House, on account

of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, refunds, and other monies for which he shall produce receipts.

Duplicate Bills of Entry, &c.

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill, if required.

CLXXVI. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or consignee, shall, if the Officer in charge of the Custom House so require, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty.

CLXXVII. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section, shall be liable to a penalty not exceeding 200 Rupees.

Taking of Samples.

Officer in charge of Custom House may take samples of goods.

CLXXVIII. An Officer in charge of a Custom House may, on the entry or clearance of any goods or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

Miscellaneous Provisions.

CLXXIX. *Repealed by Act XVII.*, 1867, *Section* 3.

Assessment of goods liable to Duty according to value.

CLXXX. In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section, the value shall be assessed at the wholesale cash price, less trade discount, for which goods of the like kind and quality are sold or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

Expense of piling timber, chargeable by measurement, by whom to be borne. No allowance for interstices.

CLXXXI. Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measure-

ment shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

Transshipment of stores from one vessel to another of the same owner without payment of Duty.

CLXXXII. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be transshipped from one such vessel to any other such vessel without payment of import Duty.

Provisions, &c., for consumption on vessels proceeding to Foreign Ports may be exported Duty free on certain conditions.

CLXXXIII. Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on board of any vessel proceeding to a Foreign Port or place. Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart: Provided that no such rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

In case of any dispute, the Duty to be deposited pending decision.

CLXXXIV. If any dispute shall arise as to the proper rate of Duty payable in respect of any goods imported into, or exported from any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

Payment of Duties short-levied or erroneously refunded.

CLXXXV. When Duty or other Customs dues or charges have been short-levied through inadvertence, error, or misconstruction on the part of the Officers of Customs; or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund; and it shall be lawful for the Officers of Customs to refuse to pass any goods belonging to such person, until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application be made within six months.

CLXXXVI. No Duty or other Customs dues or charges which shall have been charged and paid, and of which, or of a portion of which repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

Importer and exporter to pay expense incidental to compliance with Custom House rules.

CLXXXVII. The unshipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

CLXXXVIII. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom House, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of fees for wharfage to be fixed by the Chief Customs Authority.

CLXXXIX. The Chief Customs Authority of any Presidency or place, may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Saving of anchorage and harbour dues, also special dues on opium, tobacco, ganja, spirits, and salt.

CXC. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any Port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits, or Salt, under any law which is or shall be in force in any part of British India.

Duplicates may be granted and amendments made on payment of fee.

CXCI. A Duplicate of any Certificate, Manifest, Bill, or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers exempted from service on any jury or inquest.

CXCII. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

OFFENCES AND PENALTIES.

Penalty on Commanders of tug steamers or pilot vessels for receiving or discharg-

CXCIII. If any goods be put on board of any tug-steamer or pilot vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug steamer or pilot vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which

ing any goods without due authority.

drawback shall have been granted shall be put on board of any tug steamer or pilot vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug steamer or pilot vessel shall, in every such case, be liable to a penalty not exceeding 1,000 Rupees.

Penalty for shipping, landing, concealing, &c., contrary to Act.

CXCIV. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act; and any person who shall be found to have been on board of any vessel liable to confiscation under Section 13 of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not then been declared to be and was not then existing as a Port for the landing or shipment of goods, shall be liable to a penalty not exceeding 1,000 Rupees.

Vessel in Port with a cargo and afterwards found in ballast, if cargo unaccounted for, may be confiscated.

CXCV. If any vessel, which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the Sea in British India, light or in ballast, and if the Master or Commander be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Tackle, &c., and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal.

CXCVI. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Goods may be detained, and Port-clearance refused, pending payment of fines incurred.

CXCVII. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged. If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

CXCVIII. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

CXCIX. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how to be dealt with.

CC. Every vessel and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the Officer appointed to receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs Authority of the Presidency or place for the deposit of goods so seized.

Persons detained to be taken to nearest Magistrate, or to Officer in charge of Custom House.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House.

Persons taken before a Justice may be detained or admitted to bail.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs: Provided that any person so detained shall be liberated on giving recognizance or security, to the satisfaction of the Magistrate, to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Any person escaping may be afterwards detained.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall after detention make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Persons in Her Majesty's Navy, when detained, to be secured on board until warrant.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

On seizure, the seizing Officer shall give reasons in writing.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

CCVI. When any goods liable to confiscation under this or any

Procedure in respect of goods seized on suspicion.

other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods shall have been made, or an enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law. If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding 100 Rupees.

Penalty for neglect of Police Officer to give notice.

CCVII. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods: Provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Customs Officers may stop carts, &c, and search for goods.

CCVIII. It shall be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

Magistrate of district may issue search warrant on application.

CCIX. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat: Provided that such Officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person. If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Persons may be searched on reasonable suspicion.

Penalty for possession of smuggled goods.

CCX. When any Officer of Customs is about to search any person under the provisions of the last preceding Section, such person may require the said Officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House. If such

Persons before search may require to be taken before a Magistrate, &c.

requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before whom any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

Penalty for searching persons on insufficient grounds.

CCXI. If any Officer of Customs shall require any person to be searched, for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding 100 Rupees.

Customs Officers, if guilty of breach of duty, how punishable.

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers committing or conniving at frauds, how punishable.

CCXIII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud, or any attempt to practise any such fraud, such Officer or other person shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

No proceeding to be commenced against Officer of Customs without notice, or after the limited interval.

CCXIV. No suit, action, or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action, or other proceeding.

Punishment for obstruction to Customs Officers.

CCXV. Whoever intentionally obstructs any Officer of Customs, or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such Officer or person, shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding 1,000 Rupees, or to both.

Penalty for making a false declaration, or for refusing to answer questions, &c.

CCXVI. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit, falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or if any person required under this or any other Act relating to the Customs to produce any document shall refuse or neglect to produce such document, or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs

shall not truly answer such question,—such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding 1,000 Rupees.

Penalty for an unauthorized declaration as to value of goods.

CCXVII. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding 1,000 Rupees.

Officer in charge of Custom House may adjudge confiscations, and penalties.

CCXVIII. In every case in which, under this Act, any vessel, cart, or other means of conveyance or any horse or other animal is liable to confiscation ; or any goods are liable to confiscation or to increased rates of Duty ; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of Duty.

Local Government may confer like powers on other Officers of Customs.

CCXIX. In respect to cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty : Provided that the power to adjudge confiscation shall not extend, as regards a a Deputy Collector, to goods of a greater value than 1,000 Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than 100 Rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector to a sum exceeding 50 Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Proviso.

Appeal from Subordinate to Chief Customs Authority.

CCXX. In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as he shall think proper, confirming, altering, or annulling the original award : Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

CCXXI. The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs, shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

Offences not specially provided for how to be adjudicated.

CCXXII. All offences against this Act, other than those cognizable under Section 218 of this Act by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

CCXXIII. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

CCXXIV. When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine :—

If the penalty or fine do not exceed 50 Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed 100 Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed 500 Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds 500 Rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof, by distress and sale of the goods of the defaulter.

Imprisonment to terminate upon payment of the fine.

CCXXVI. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs, shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon payment of proportional part of fine.

CCXXVII. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

On confiscation of vessel or goods, property to vest in Her Majesty.

CCXXVIII. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, shall be adjudged under Section 218 or Section 219 of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

Appropriation of penalties, &c., and grant of rewards.

CCXXIX. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

CCXXX. *Repealed by the Repealing Act XIV.*, 1870.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(See Section 74.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT———

SIR,

Please to comply with my request to be furnished with a license under Act VI. of 1863————————————————for a Warehouse situated at————————————————and about the distance of————————————————from the Custom House. The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house—(*or as the case may be*).—The period of license not to exceed—(*mention the time for which required*).

Particulars of Godown.

					Feet—Inches	
Length	...	...	...	...		Dry, airy, well flued and pucka built; can contain with perfect safety and convenience————tons of goods (—*as the case may be.*—)
Breadth	...	...	...	...		
Height	...	...	...	...		

This godown is my own property—(*or the property of*————————*from whom I have engaged the same on a lease of*————————)

(*Signed*) (————————)
Name of Applicant.

Place————
Date————

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(See Section 75.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT———

SIR,

Please to order the reception into the public Warehouse————(*or the private warehouse*)—of Mr. A. B., situate at————————and licensed by No.————dated————of the undermentioned goods, arrived from—(*Port or place to be mentioned*)—on the—(*British or other*)—ship———— whereof————is Commander.

The Duty upon these goods has been adjusted in the manner specified below:—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No. of importation.	Specification of the particulars of bonds, if the Duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place————

Date————

C.

FORM OF BOND FOR IMPORT DUTY.

(See Sections 77 and 78.)

BOND.

No. 18

We, A. B.,————now of————; and C. D.————of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees————to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at————.

Sealed with our seals———— (*date*)

(*Signed*)————

The above bounden————having applied to the Officer in charge of the Custom House at————for, and obtained, permission to lodge in the warehouse————for a period of————the following goods, that is to say—imported by Sea from————on board of the ship————and entered in the Custom House Books as No.————of the Register of Goods imported by Sea;

The condition of this Bond is that—

If the————their heirs, or representatives, shall observe all the rules prescribed in Act No. VI. of 1863 to be observed by owners, importers, or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof;

And if the said————their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of————all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within

——————————————from the date of this Bond, or within such further time as the Chief Customs Authority of——————————shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed, or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home consumption or re-exportation by Sea, the full amount of all Customs Duties, warehouse dues, lawful charges, and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals———— (*date*)

(*Signed*) ( )

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See Section* 99.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT————

SIR,

Please to order to be passed from the public warehouse————(*or private warehouse*)—of Messrs. A. & Co., situate at——————————and licensed under Act VI. of 1863————by No.——————————dated ————————) the undermentioned goods intended for exportation by Sea on the——————————ship————whereof————————is Commander, and which is bound to—(*or for internal consumption*)—the same having been entered in the books of your Office for the said warehouse, under No.————dated——————————by me—*or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods herewith annexed.)

Marks and No. of cases, B. and Co., (*Name of the goods*) No. 1 to 4, [] ×) Sealed, Warehoused for exportation,	(Four cases of—(*name of goods*)—1 case,—(*box, bale, or parcel,*)—containing—(*here insert the quantity in each case.*) 1 Ditto. 1 Ditto. 1 Ditto. Four cases,—(*boxes, bales, or parcels*)—containing (—*total contents to be here stated*)—

The Custom House value of the above is Government Rupees————

(*Signed*) (————————)

Name of owner, agent, or consignee of goods.

Place————————

Date————————

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See Section* 105.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT————

SIR,

Please to permit the removal of the undermentioned goods from the public—(*or private*)—warehouse—(*describe the warehouse*)—to—(*the warehouse into which the removal is intended to be made must here be distinctly described*)—for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of Act No. VI. of 1863 in the books of the warehousing department, No.——————————dated ————————————for fifteen months—(*or such other period as may have been allowed*)—under the obligations and conditions at present attached to the goods—

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House books.	Rate of Duty chargeable or paid upon the goods.	Name of the Persons by whom goods first passed into warehouse.
1.	2.	3.	4.	5.	6.	7.

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(Signed) (————————————)
Name of owner, agent, or consignee of goods.

Place————
Date————

F.

FORM OF SHIPPING BILL.

(*See Section* 123.)

Shipping Bill.
1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to Duty.
5, Country goods not subject to Duty.

(*State, as described, the class to which the goods to be exported belong.*)

Ship's name.	Whether British or Foreign; if Foreign, the Country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of goods.	Rate of value for Duty.	Total value for Duty.	Declared real value under Section 26.	REMARKS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

☞ *Here state particulars according to the above headings.*

I claim drawback on
I declare the value of the goods above described to be
(————————————)

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register Custom House.

Name of Exporter or Agent.

(————————————)

Date————*day of*————

Name of Officer in charge of Custom House.

G.

FORM OF COASTING PASS.

(*See Section* 154.)

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country goods.	Restricted goods and goods liable to duty of excise.
1.	2.	3.	4.	5.	6.	7.	8.	9.

☞ *Here state the particulars according to the above Headings.*

Cleared the————*day of*————18

(*Signed*) (————————————) (*Signed*) (————————)

Officer in charge of Custom House. *Name of Master.*

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See Section* 163.)

We————————————————————————————, ————are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees————to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives, and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at————————————Sealed with our seals, dated this ————day of————18 .

(*Signed.*) (————————)

The above bounden————being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees————being the amount of Duty payable at the rate of Rupees——per Imperial gallon London proof, for——— gallons of———(*or for*————*gallons of proof spirit used in the preparation of*

———*dozen of bottles or*———*gallons of cordials and liquors as specified in the annexed Schedule)*——manufactured at———which the said———have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI. of 1863 without having paid such Duty.

The condition of this obligation is, that, if the above bounden———their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State Duty at the rate of——Rupee——per Imperial gallon of proof spirits for all or any portion of the abovementioned———which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of Duty, then this Bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of———

Place———

Date———

If the bond be for cordials and other liquors under Section 170, *add Schedule.*

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1.	2.	3.

ACT No. VIII. OF 1863.

General.

1. Repealed.
2. Officers in charge of Mofussil Jails to give effect to sentences passed by any Court.
3. Warrant signed by an Officer of Court to be sufficient authority.
4. Government may authorize reception, detention, or imprisonment in British India of persons sentenced in Native States for Thuggee, Dacoity, Suttee, or Sumadh.
5. If Officer doubt the legality of a warrant or competency of person passing sentence, the matter to be referred to Government.
6. Existing enactments and rules for the treatment and security of prisoners, to apply to prisoners confined under this Act.

An Act for the amendment of the law relating to the confinement of Prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of Prisoners, convicted of offences in Native States.

Preamble.

Whereas it is desirable to amend the law relating to the confinement of Prisoners who have been sentenced by Courts acting under the authority of Her Majesty, or of the Government of India, or of any local Government; and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive), or Sumadh (burying alive), and of such other offences as the Governor-General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to prescribe, within the Territories of Native Princes or States in alliance with Her Majesty, as is already made in regard to persons convicted of Thuggee or Dacoity in such States; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Officers in charge of Jails may give effect to sentences passed by certain Courts.

II. Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any local Government, although such Court be **not* situate in a place not subject to the general Regulations: Provided that this Section shall not apply to any Officer in charge of any Jail or House of Correction within the local limits of the ordinary original civil jurisdiction of any Court established by Royal Charter.

Proviso.

Warrant of Officer of such Court to be sufficient authority.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Government may authorize reception, detention, or imprisonment in British India of persons convicted of certain offences in Native States.

IV. It shall be lawful for the Executive Government of any part of the British Territories in India, to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced, within the Territories of any Native Prince or State in alliance with Her Majesty, to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offences as the Governor-General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided, always, that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Proviso.

Procedure of Officer in charge of Jail if he doubt the legality of any warrant sent to him for execution.

V. If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

* By Act XXVI., 1869, Section 1, it is enacted that this Section is to be read as if for the phrase "be not situate," the phrase "be situate" were substituted.

VI. The provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said Jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act, as in the case of other prisoners confined therein.

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

ACT No. IX. OF 1863.

General.

An Act to amend the Code of Civil Procedure.

Preamble.

Whereas the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas in the Territories not subject to the General Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII. of 1859 to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally consists of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him; It is enacted as follows:

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

I. When in any part of the British Territories in India to which the Code of Civil Procedure had been, or shall be, extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

No order or proceeding of such Court to be void because passed or held by a single Judge.

II. No order passed by, or proceeding held before, the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid or be liable to be questioned on the ground that such order or proceeding was passed by, or held before, a single Judge.

ACT No. X. OF 1863.

Darjeeling.

1. No appeal from decisions and orders of Superintendent of Darjeeling in Small Cause Court cases, but a new trial may be granted if applied for within 30 days.
2. A statement of the case in question's of law or usage or the construction of a document, may be submitted to the High Court.
3. Case may be proceeded with notwithstanding such reference, but execution not to issue.
4. Referred cases to be dealt with by two or more Judges.
5. Court to fix an early day for hearing.
6. Parties may appear and be heard in person or by pleader.
7. Judgment to be transmitted to the referring Judge, who is to dispose of the case in conformity therewith.
8. Costs of reference to be costs in the suit.
9. An appeal to lie to the Judge of Dinagepore in all suits under Rs. 5,000 value, other than those mentioned in Section 1.
10. Special appeal to High Court from the appellate decisions of such Judge, if the decision be contrary to some law or usage, or if there be a substantial legal error or defect in the procedure.
11. In suits above Rs. 5,000 value, appeal to lie to High Court.
12. Commitment to the Court of Session to be made to the Sessions Judge of Dinagepore.
13. Appeals allowed under such Code to lie to such Sessions Judge.
14. Sentences and orders passed under this Act subject to the same jurisdiction of High Court as other sentences and orders of such Judge.

An Act to improve the Administration of Justice in the District of Darjeeling.

Preamble.

Whereas it is expedient to improve the administration of Justice in the District of Darjeeling; It is enacted as follows:

No appeal from decisions in suits of the nature cognizable in Small Cause Courts.

Proviso.

I. Every decision or order passed by the Superintendent of the District of Darjeeling in suits of the nature cognizable in Courts of Small Causes under Act XLII. of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, or by the Judge of any Court constituted in the said District under the said Act, shall be final, and no appeal shall lie from such decision or order: Provided that it shall be competent to the Superintendent or Judge of any such Court as aforesaid, if he shall think fit, to grant a new trial, if applied for within the period of thirty days from the date of the decision; but no new trial shall be granted unless the party applying for the same shall, with his application, deposit the amount for which judgment shall have been given against him, including the costs (if any) of the opposite party.

In case of doubt as to question of Law, &c., statement of case may be submitted for decision of High Court.

II. If in the trial of any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Superintendent or Judge of any Court constituted as aforesaid shall entertain reasonable doubt, the Superintendent or Judge as aforesaid may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it with his own opinion for the decision of the High Court.

And decree may be passed contingent thereon, but pending receipt execution not to issue.

III. The Superintendent or Judge as aforesaid may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Referred cases how to be dealt with.

IV. Cases referred for the opinion of the High Court shall be dealt with by two or more Judges of that Court.

Day of hearing to be fixed and proclaimed.

V. The High Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court House of that Court.

Parties may appear and be heard in person or by pleader.

VI. The parties to the case may appear and be heard in the High Court in person or by pleader.

Decision of High Court how to be transmitted.

VII. The High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Superintendent or Judge as aforesaid, and the Superintendent or Judge as aforesaid shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

In suits other than those referred to in Section 1, and of an amount or value not exceeding 5,000 Rupees, a regular appeal to lie.

IX. In all suits other than those mentioned in Section 1 of this Act, in which the amount or value of the suit shall not exceed 5,000 Rupees, an appeal from the decision of the Superintendent, or of any other Court which is or hereafter may be established in the said District of Darjeeling, shall lie to the Judge of Dinagepore, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

Special appeal to High Court in certain cases.

X. A special appeal shall lie to the High Court of Judicature at Fort William from all decisions passed in regular appeal by such Judge, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case, which may have produced error or defect in the decision of the case upon the merits, and upon no other ground, and such special appeal shall be subject to the rules contained in the Code of Civil Procedure regarding special appeals.

In suits above 5,000 Rupees, regular appeal to lie to High Court.

XI. In all suits heard and determined by the Superintendent, or by any other Court which is or hereafter may be established in the said District of Darjeeling, in which the amount or value of the suit shall exceed 5,000 Rupees, an appeal shall lie to the said High Court, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

Commitments to be made to the Sessions Judge of Dinagepore.

XII. When a commitment in a case triable under the Code of Criminal Procedure by a Court of Session is made by the said Superintendent, or by any other Officer in such District competent to make commitment to the Court of Session, such commitment shall be made to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Appeals from sentences, &c., of Superintendent and his subordinates.

XIII. Appeals from sentences and orders passed by the said Superintendent or by any Officer subordinate to him from which an appeal is allowed under the Code of Criminal Procedure, shall lie to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Powers of High Court in respect of sentence, &c., of Sessions Judge under this Act.

XIV. The High Court of Judicature at Fort William in Bengal shall exercise the same jurisdiction, appellate or otherwise, in respect of any sentence or order passed by such Sessions Judge under this Act, which the said High Court may exercise in respect of any other sentence or order passed by such Judge.

ACT No. XIII. OF 1863.

Bombay.

1. Persons sentenced by the High Court at Bombay to rigorous imprisonment may be imprisoned either in the House of Correction or Common Jail at that place.
2. Persons sentenced by the High Court at Bombay to transportation or penal servitude may be kept in the House of Correction or Common Jail as the place of intermediate custody.
3. Persons sentenced by a Justice of the Peace or Magistrate of Police at Bombay may be committed to the House of Correction or Common Jail.

An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail.

Preamble.

Whereas great inconvenience is occasioned in the administration of Criminal Justice by reason of the House of Correction in the Town of Bombay not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court at Bombay, and the Justices of the Peace and Magistrates of Police in the Town and Island of Bombay, should be empowered to send prisoners to the Common Jail in the Town of Bombay, as well as to the House of Correction; It is enacted as follows:

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in House of Correction or Common Jail in Bombay.

I. Whenever, from and after the passing of this Act, any person shall be sentenced by Her Majesty's High Court of Judicature at Bombay to rigorous imprisonment, or to imprisonment with hard labour or solitary confinement, it shall be lawful for the Judges or Judge of the said Court of Judicature to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as to them or him shall seem fit.

Where also persons sentenced by the said Court to transportation, &c., may be kept.

II. Whenever, from and after the passing of this Act, any person shall be sentenced by the High Court at Bombay to transportation or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as the place of intermediate custody.

Where also persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, &c., may be committed.

III. Whenever, from and after the passing of this Act, any person shall be sentenced by a Justice of the Peace or Magistrate of Police in the Town and Island of Bombay to rigorous imprisonment, or imprisonment with hard labour, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the Common Jail in Bombay, as to such Justice of the Peace or Magistrate shall seem fit.

Act No. XIV. of 1863.

N. W. Provinces.

1. The following suits to be cognizable only by Collectors of Revenue, in addition to those specified in Sections 23 and 24 of Act X. of 1859:—
(1) Suits by Lumberdars for arrears of Revenue.
(2) Suits by Co-sharers for profits or settlement of accounts.
(3) Suits by Maafeedars for arrears of Revenue.
(4) Suits by Talookdars for arrears of Revenue.

2. Suits under the preceding Section to be instituted within three years from date of arrear or profits becoming due, or within one year after the period to which the accounts relate if the suit be for a settlement of accounts.

3. Rent paid by a ryot above the prevailing rate, to be an additional ground for abatement of rent.

4. The words "or by any other means not warranted by law" added to Clause 2, Section 23.

5. Sections 34 and 86 repealed, and two Sections substituted:—
Section XXXIV. Particulars to be stated in plaint to be presented to the Collector.
Section LXXXVI. Process of execution may be either against the person or property of the judgment-debtor.

6. Sections 243 and 244 of the Code of Civil Procedure to be applicable to decrees for money passed in suits under Act X. Such orders to be subject to revision by Revenue Authorities, but not open to appeal.
7. The words "or where the rent of a putee is not collected by a Lumberdar, through the putteedar who is entitled to collect rent" added to Section 112.
8. Settlement Officers may be invested with powers for the decision of suits under Section 23 of Act X. or under this Act.
9. Such Officer to have power to determine disputes regarding the rates of rent payable by under-tenants and ryots.
10. Suits for enhancement of rent to be heard by such Officers notwithstanding notice of enhancement has been served.
11. Suits before such Officer for enhancement or abatement of rent may be brought collectively by or against ryots cultivating in the same Estate.
12. Decisions passed by such Officers open to appeal under Act X. Decrees passed before this Act not to be questioned for want of jurisdiction or for defect in procedure.
13. Rents paid in kind or by valuation may be commuted to fixed money payments. Such decisions already passed, to be legal and binding.
14. Provisions of the Code of Civil Procedure relative to arbitration to apply.
15. Water-rat epayable to Government may be made over to a Lumberdar for collection in the same manner as the collection of rent, and such rate (less commission) to be a charge on the estate of such Lumberdar.
16. Person arrested under Section 145 of Act X. to be brought forthwith before the Collector for the trial of the case. Security to be given if case cannot be tried immediately, or person to be committed to the Civil Jail in the interim.
17. Decisions of Zillah Judge in regular appeal declared open to special appeal.
18. Act to be taken as a part of Act X.
19. Act X., as amended by this Act, may be extended by the Governor-General in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab to places under their respective Governments.

An Act to amend Act X. of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.)*

Preamble.

Whereas it is expedient to amend Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply; It is enacted as follows:

Suits cognizable by Collectors in addition to those specified in Sections 23 *and* 24 *of Act X. of* 1859.

I. In addition to the suits specified in Sections 23 and 24 of Act X. of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say):—

1*st.*—Suits by Lumberdars for arrears of Government Revenue payable through them by the Co-sharers whom they represent.

2*nd.*—Suits by Co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3*rd.*—Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4*th.*—Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section 23 of the said Act X. of 1859) due to them as such Talookdars or other superior proprietors.

Limitation of suits under preceding Section.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or, if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year

to which the accounts relate; or, in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Additional ground for claim to abatement of rent.

III. In addition to the grounds mentioned in Section 18 of the said Act X. of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

Addition to Clause 2, Section 23.

IV. Clause 2 of Section 23 of the said Act X. of 1859 shall be read as if the words "or by any other means not warranted by law" were added thereto.

Repeal and re-enactment of Sections 34 and 86.

V. From the date of the passing of this Act, Sections 34 and 86 of the said Act X. of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided; and the following Sections are enacted in lieu thereof:—

Procedure in the institution of the suits under this Act.

"Section 34. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action."

Issue of process of execution.

"Section 86. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment-creditor, his agent, or mookhtear, made at the time the decree is passed, or thereafter upon the written application of the judgment-creditor, his agent, or mookhtear. Process of execution against the person or moveable property of a debtor shall be in Form E or F contained in the Schedule to the said Act X. of 1859, or to the like effect."

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X. of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise. Orders passed by a Collector under either of the said Sections shall be subject to revision by the Commissioner of the Division and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Revision and Appeal.

Addition to Section 112.

VII. Section 112 of the said Act X. of 1859 shall be read as if the words "or where the rent of a puttee is not collected by a Lumberdar, through the putteedar who is entitled to collect the rent" were added at the end of such Section.

Local Government may invest Settlement Officers with certain powers.

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X. of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in Section 23 of the said Act, or in this Act, while such Officer is so employed.

Matters cognizable by such Settlement Officers.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

Rule as to suits for enhancement of rent.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section 8 of this Act to hear the same, such suit shall be heard and determined by such Officer, notwithstanding that no notice of enhancement shall have been served under Section 13 of the said Act X. of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

Provision for suits by or against ryots collectively.

XI. Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section 8 of this Act to hear such claim, such ryots may be sued or may sue collectively; and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him: Provided, also, that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

Decisions liable to appeal.

XII. All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X. of 1859 in respect to decisions passed by a Collector in suits of the same description: Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Proviso as to former decisions.

Commutation of rents in kind to fixed money payments.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X. of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X. of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

Arbitration. Chapter of Civil Procedure Code made applicable.

XIV. The provisions of Chapter VI. (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X. of 1859, and under this Act.

Provision for collection of water rate.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a Lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent Zemindars, ryots, and other under-tenants in such estate, shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such Lumberdar,) be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on such estate; and for the purpose of collecting such water rate from the dependent Zemindars, ryots, and other tenants in such estate liable thereto, such Lumberdar shall have the like powers, and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

Rule as to person arrested under Section 145 of Act X.

XVI. If any person shall be arrested under Section 145 of the said Act X. of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

Special appeal from decisions of Zillah Judge under Act X. of 1859.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X. of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X. of 1859.

Construction of Act.

XIX. It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X. of 1859, as amended by this Act, to any Territories immediately administered by the Government of India, or for the Lieutenant-Governors of the North-Western Provinces and of the Punjab, respectively, to extend the said Act, amended as above, to any part of the Territories under their respective Governments, in which the said Act X. of 1859 is not now in force. Whenever the said Act, amended as above, shall be so extended, the Governor-General of India in Council, or the Lieutenant-Governor who shall so extend the same, shall declare by what Officers in the said Territories or any parts thereof, to which the said Act X. of 1859, amended as above, shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

Power to extend the Act.

ACT No. XV. OF 1863.

General.

1. Repealed.
2. Sections 9 to 16 of Act I. of 1859 not to apply to ships registered under Act X. of 1841, and manned by Asiatic Seaman trading between Ports in India and the Coast of Arabia; nor to ships under 200 tons so registered and manned, trading between the Straits' Settlement and the Gulf of Siam or the Eastern Archipelago.
3. The Master of every ship, except Home-trading ships under 300 tons, to enter into an agreement with every Seaman and other Native whom he carries to sea from any Port in India. Form, particulars, and stipulations of such agreements.
4. Where there is no Admiralty Court the Courts of ordinary original criminal jurisdiction empowered to try charges of incompetency or misconduct on the part of Masters, &c., having certificates from the Board of Trade, and with the sanction of the local Government to suspend or cancel such certificates.
5. Decision to be stated in open Court, and a report of the case to be sent to the Board of Trade.
6. Local Government may order an investigation in cases where a Shipping Master reports that a certificated Master is unfit to discharge his duties.
7. In cases under Sections 4 or 6 the Court, Board, or Officer may summon the defendant and examine witnesses. Costs may be enforced as fines.
8. Local Government may cancel or suspend certificates granted in India, if a wrongful act or default be proved under Sections 100—102 of Act I. of 1859, or if incompetency or misconduct be proved under Section 6 of this Act; or if a wrongful act or default or misconduct shall have been proved to the satisfaction of a competent Court, or if the certified person shall have been superseded by any Admiralty or Naval Court, or if he has been convicted of any offence.
9. Penalty for not delivering up a certificate which has been cancelled or suspended.
10. Where there is no Admiralty Court, the power to remove a person having an Indian Certificate to be exercised by the principal Court of ordinary criminal jurisdiction.
11. Act to be read as part of Act I. of 1859.

An Act to amend Act I. of 1859 *(for the amendment of the law relating to Merchant Seamen.)*

Whereas it is expedient to amend the provisions of Act I. of 1859 *(for the amendment of the law relating to Merchant Seamen)* in so far as the said Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement, the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service; It is enacted as follows:

Preamble.

I. *Repealed by the Repealing Act XIV.*, 1870.

II. Sections 9 to 16 of the said Act I. of 1859 shall not apply to ships registered under Act X. of 1841 *(for prescribing the rules to be observed, in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or*

Sections 9 to 16 of Act I. of 1859 not to apply to ships registered under Act X.

of 1841, *under certain circumstances.*

belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3 *and* 4 *Victoria, Chapter* 56*)*, and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than 200 tons burden registered under the said Act X. of 1841, and trading between any Port of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

Agreements with seamen and others.

III. The Master of every ship, except ships of a burden not exceeding 300 tons employed only in the Home-trade, shall enter into an agreement with every Seaman, and with every Native of India not being a Seaman, whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the Master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof; (that is to say):—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5.—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such ageement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law: Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seamen, or any Native of India not being a Seaman, in any Port in India, such Seamen, or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under

Proviso as to forms for British or Colonial ships.

Proviso where Lascars, &c., are shipped.

this Act: Provided, also, that, in the case of Lascars or other Native Seaman, and every Native of India not being a Seamen, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

Court authorized to enquire into charges against Masters, Mates, and Engineers, and to report to local Government.

IV. Every Court having Admiralty jurisdiction in India, and the principal Court of ordinary criminal jurisdiction at every Port in India where there is no Court having Admiralty jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ship; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and the Court shall report the same to the local Government within whose limits such Court is situated: Provided that no certificate shall be cancelled or suspended, unless a copy of the Report, or a statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation: Provided, also, that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

Proviso.

Procedure of such Court.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Local Government may direct investigation in cases of incompetency and misconduct.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency, or misconduct, and shall,

on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation.

Powers of Court, &c., in making enquiry.

VII. For the purpose of any such enquiry under Section 4 or Section 6, the Court, Board, or Officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses, and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held.

Local Government may cancel certificates or suspend them in certain cases.

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I. of 1859, to any Master or Mate in the following cases, (that is to say) :—

Abandonment, loss, or serious damage by default of Master or Mate.

Clause 1. If upon any investigation conducted under the provisions of Sections 100, 101, and 102 of Act I. of 1859, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default.

Incompetency, gross misconduct, drunkenness, or tyranny of Master or Mate.

Clause 2. If upon any investigation held under Section 6 of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Or after other investigations.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act, 1854, or the Merchant Shipping Amendment Act, 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny: Provided, always, that, in the case of any Report by any such last-mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Supersessions.

Clause 4. If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or any other law for the time being in force.

Conviction of any offence.

Clause 5. If he is shown to have been convicted of any offence.

Certificate to be given up—under a penalty.

IX. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government which cancelled or suspended the certificate shall

direct, and in default shall, for each offence, incur a penalty not exceeding 500 Rupees: Provided that, if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the local Government which granted such certificate: Provided, also, that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Proviso for report to other local Government.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section 240 of the Merchant Shipping Act of 1854, or Section 80 of the said Act I. of 1859, in Courts having Admiralty jurisdiction in India. The said powers may be exercised by the principal Court of ordinary criminal jurisdiction at any Port in India where there is no Court having Admiralty jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

Saving of powers vested in certain Admiralty Courts.

Same powers may be exercised by Chief Criminal Court in Indian Port, where there is no Admiralty Court.

XI. This Act shall be read and taken as part of the said Act I. of 1859.

Act to be taken as part of Act I. of 1859.

ACT No. XVI. OF 1863.

General.

1. Spirits intended to be used in Manufactures, &c., may be removed from distillery on payment of a Duty of ten per cent. after having been rendered unfit for human consumption.
2. Board of Revenue to make rules for rendering such spirits unfit for human consumption, and for fixing the value thereof.
3. A penalty of 500 Rupees for contravention of such Rule.
4. Person attempting to render fit for consumption spirits removed under this Act liable to a penalty of 1,000 Rupees, and the possessor of such spirits to a penalty of 500 Rupees.
5. Penalties may be levied by distress.
6. If penalty be not paid, offender may be detained, pending return of distress warrant, unless security be given.
7. If penalty cannot be levied by distress, offender may be imprisoned in the Civil Jail for certain specified periods
8. Provisions of Section 11 of Act III. of 1852 not to apply to spirits rendered unfit for consumption under this Act.
9. In cases of conviction under Section 3 or 4, the spirits, together with the vessel containing them, and the cart, boat, and animals conveying them, liable to confiscation.

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Whereas it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry; It is enacted as follows:

Preamble.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent. on the value of the Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Spirits intended for use in Arts, &c., may be removed from Distillery on payment of Duty.

II. The Board of Revenue, or other Authority specially author-

How to ascertain that such spirits have been rendered unfit for human consumption, &c.

ized in that behalf by the local Government, shall prescribe from time to time, subject to the approval of the local Government, rules for ascertaining and determining that Spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section 1 of this Act; for causing such Spirits to be so rendered, if necessary, by its own Officers at the expense of the person who wishes to remove them; and for fixing the value of the Spirit on which the *ad valorem* Duty shall be levied.

Penalty for breach of such rules.

III. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other Authority as aforesaid, under the last preceding Section of this Act, shall be liable, on conviction before any Officer exercising the powers of a Magistrate, to a penalty not exceeding 500 Rupees for every such offence.

Penalty for attempting to render such spirits again fit for human consumption.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding 1,000 Rupees; and the possessor of such Spirits on which such attempt has been, made or which may have been rendered fit for human consumption, shall be liable, on conviction before any Officer exercising the powers of a Magistrate, to a penalty not exceeding 500 Rupees.

Such penalty how to be levied.

V. Any penalty imposed under either of the last two preceding Sections may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

In case of the non-payment of a penalty, offender may be detained, pending return to the warrant.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereupon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he had not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed 50 Rupees, and for any term not exceeding four calender months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on the payment of the amount.

VIII. The prohibition contained in Section 11 of Act III. of 1852 *(to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay)* against mixing any noxious drug or material in, or by other process adulterating, Spirits manufactured under the provisions of Regulation XXI. of 1827, of the Bombay Code, or of the said Act III. of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

Section 11, Act III. of 1852 not to apply to spirits rendered unfit for consumption under this Act.

IX. In every case of conviction under Section 3 or Section 4 of this Act, the liquor or Spirits, with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such such liquor or Spirit, shall be liable to confiscation.

Confiscation in cases of conviction under Section 3 or 4.

ACT No. XVIII. OF 1863.

High Court (Bengal.)

1—4. Repealed.
5. Powers of Master to be in future exercised by the Judges.
6. Power to Court to dismiss suits, upon certificate of Master that no proceedings have been taken for a year.
7. Division Court may refer matters of account or detail for the consideration of a single Judge, whose report to be final, except on an appeal of the whole case.
8. High Court to make Rules for guidance of Master, and for regulating the procedure of single Judge as aforesaid.
9. Proviso of Section 4 of Act V. of 1840, exempting H. M.'s Courts from the operation of the Act, repealed. Form of affirmation for verifying an affidavit.
10. Except writs of summons to defendants, and writs of execution, all Civil judicial processes may be served by the Attorneys in the suit or as the Court shall by Rule direct.
11. Judicial process need not be signed by the Judges of the High Court, but may be signed by such Officers as to the Court may seem fit.
12. Act may be extended to the High Courts at Madras and Bombay by the Governors in Council of those Presidencies respectively.

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Whereas, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the law concerning the administration of Oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such Oaths in Courts not established by Royal Charter; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its ordinary original civil jurisdiction; It is enacted as follows:

Preamble.

I.—IV. *Repealed by the Repealing Act VIII.*, 1868.

V. From and after the passing of this Act, all or any of the powers, authorities, and jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the said Court.

All the powers of a Master may be exercised by Judges.

Power to Court to dismiss suits upon Certificate of Master that no proceedings have been taken for a year.

VI. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power of Division Court to refer matters for investigation by a single Judge.

VII. It shall be lawful for any Division Court consisting of more than one Judge, to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation, sitting either in Chambers or in open Court, and shall report thereon to a Division Court, and such report shall as regards such Division Court be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power to make rules.

VIII. The said High Court shall have power to make general rules or orders for winding-up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted, in the Master's Office, and for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act: Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

Extension of Act V. of 1840, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

IX. The proviso contained in Section 4 of Act V. of 1840, *(concerning the oaths and declarations of Hindoos and Mahomedans)*, that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section 1 of the said Act V. of 1840, shall be read as if the words following had been added thereto:

"And when verifying an Affidavit to the following effect:—I solemnly affirm in the presence of Almighty God that the signature to this is my name and hand-writing; and that the contents of this Affidavit are true."

Process from High Court may be served by Attorneys and others.

X. After the passing of this Act, notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section 41 of Act VIII. of 1859 *(the Code of Civil Procedure)* and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not to be necessary for a Judge to sign process.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the ordinary original civil jurisdiction of the said High

Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Extension of the Act to the High Courts at Madras and Bombay.

XII This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort St. George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively; and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

ACT No. XIX. OF 1863.

N. W. Provinces.

1. Repealed.
2. Future partitions to be made under this Act.
3. Every recorded proprietor of a joint undivided rent-paying estate may claim partition.
4. Written application to be made to Collector. Two or more proprietors may apply to have separate shares in a joint estate.
5. Collector may reject application if it does not state the nature of the tenure, the names of the co-sharers, the nature and extent of their shares, and the mode of partition desired.
6. Collector to invite party in possession, objecting to application, to appear, and shall serve notice on proprietors who have not joined in the application, and if service cannot take place, proclamation to be made.
7. In case of valid objection to partition by party in possession, application may be refused, the grounds thereof being recorded.
8. Collector may enquire into questions of title or of proprietary right under the Code of Civil Procedure, or may refer them to arbitration.
9. Decisions under preceding Section open to appeal to District or Sudder Court according to value of claim. Pending decision of appeal, Court may order partition to be stayed.
10. Special appeal from decisions of District Court to lie to the Sudder Court.
11. Suits for partition not to be entertained by Civil Court, unless on appeal from decision of Collector.
12. On ordering a partition, Collector to publish a notification intimating his intention.
13. Partition to be made by Collector of District. If estate be situate in two or more Districts, by the Collector whom the Commissioner of the Division may order to do so. If in two or more Divisions by such Collector as the Board of Revenue may order.
14. Expense of making partition to be fixed by Collector: if not paid, amount may be realized as arrears of rent or Revenue.
15. Commissioner, on report of Collector, may stay partition and quash proceedings. Such order not open to revision by Civil Court.
16. After 30 days from date of notification, Collector to cause a measurement to be made, and a rent-roll to be prepared. Any proprietor may file a rent-roll acknowledged to be correct.
17. Collector may examine the parties regarding the papers produced, and shall hear objections of share-holders.
18. After completion of inquiry under preceding Section, Collector may allow the parties the option of making a private partition or of referring it to arbitration. Partitions so made to be subject to confirmation of Revenue Authorities.
19. If parties cannot agree as to appointment of arbitrators, Collector may appoint two or more, and shall act as umpire.
20. If an arbitrator refuse to act or die, another person to be appointed.
21. Collector to exercise towards the arbitrators the same powers as he can exercise towards witnesses. Collector to fix and may extend time for delivery of paper of partition.
22. Paper of partition to specify the separate estates, the persons to whom they are to be allotted, and the amount of public Revenue on each.
23. Arbitrators entitled to reasonable fees, to be fixed by the Collector.
24. In default of award within the time fixed, Collector may refer the partition to other arbitrators.
25. If the partition cannot be made by the parties or by arbitration, Collector to appoint an Officer for the purpose, and to fix a time for the making of the partition.
26. Officer to issue a proclamation to the proprietors.
27. Estate may be attached and brought under khas management under superintendence of Officer: collections to be divided amongst proprietors, after payment of Government Revenue.
28. If arrears of Revenue accrue during partition, proprietors may pay their quota separately; but until completion of the partition shall have been completed, entire estate to be held responsible for the Revenue.
29. Partition Officer to have same power as Collector for making a measurement and map.
30. If lands be held in common, Collector to declare rule of division. By agreement of parties, Collector may cause transfers of land to be made.
31. If a compact estate cannot be formed, and parties decline to agree to transfers, Collector may refuse to declare such lands a separate mehal.
32. When there are no lands in common, lands in severalty may be assessed and declared a separate estate, subject to any transfers of lands ordered under Section 30.

33. If, after proclamation, sharer fail to attend, his objection not to be heard without sufficient reason.
34. Partition may at any time be stopped, if sharers so desire: sharers to pay costs and expenses incurred.
35. Estates to consist, as far as possible, of contiguous mehals or villages, and to be made as compact as possible.
36. Revenue to be assessed on each estate according to law.
37. In selecting the villages or lands to be included in each estate, local circumstances to be considered. Lands held in severalty to be left undisturbed as far as practicable.
38. On payment of an equitable rent, dwelling-houses, with their buildings and grounds, may be held by one sharer on land allotted to another.
39. Extent of use and proportion of charges to be borne in regard to tanks, wells, &c., to be fixed in the paper of partition, when they are continued the joint property of two or more proprietors.
40. Places of worship held in common to continue to be so held, unless the parties otherwise agree.
41. Paper of partition to show in detail how the estate is to be divided, and the apportionment of the Revenue, and to be accompanied by a map showing the several divided estates.
42. Collector to dispose of objections to the proposed partition, and to submit a report to the Commissioner, who may confirm the partition or direct a modification thereof.
43. Decision of Commissioner open to appeal to the Board of Revenue, but not to revision by the Civil Court. In cases of equal divisions, parties may be directed to draw lots.
44. Order of Commissioner or Board of Revenue to be published, and proprietors to be put in possession.
45. Government may order new allotment of Revenue among estates formed by partition, if within 12 years fraud or error in original allotment be proved. Party under-assessed to pay to party over-assessed the amount of over-assessment.
46. Neglect or omission to claim any right or title in an estate, while such estate is under attachment for purposes of partition, to be a valid plea in bar of the future institution of such suits.
47. The holder of a decree of a Civil Court, awarding a right to portion of an estate, may apply for partition. Collector to proceed thereon under this Act.
48. Estates, originally undivided, may be united if possessed by one person, and shares of estate held by two or more persons may be united and held as one estate.
49. Applications for such unions to be made to Collector.
50. Repealed.
51. Act may be applied, by order of the local Government, to partitions of rent-free estates.
52. Collector to be subject to the general direction and control of the Commissioner and the Board of Revenue.
53. Unless otherwise provided, and except as to decisions under Section 9, orders of Collector open to revision by the superior Revenue Authorities.
54. Powers of Collector may be exercised by any Officer vested with the full powers of a Collector
55. Collector or other Partition Officer to exercise the powers described in Regulations II. of 1819 VII. of 1822, and IX. and XIV. of 1825.
56. Collector to have same power as that vested in a Civil Court in respect of persons guilty of the offences of giving or fabricating false evidence, or of forgery.
57. In cases not provided for by law, Board of Revenue to be guided by instructions of local Government.
58. Interpretation.
59. Act to extend only to the Regulation Provinces of the N. W. Provinces, but may be extended to any Non-Regulation Province under such Government.

An Act to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

II. All partitions of Estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.

What parties shall be entitled to partition.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

Parties desirous of partition to apply to Collector in writing.

IV. When any one or more of the recorded proprietors of an estate, as described in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall make a written application for the purpose to the Collector of the District. Any two or more proprietors

may apply to have their shares separated, and to hold the same as a joint estate.

Application to be signed, and certain particulars specified.

Otherwise may be rejected.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-sharers in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

Procedure of Collector on receipt of application.

Notice to proprietors who have not joined therein.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a notification of the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the notification, not being less than fifteen, or more than thirty days from the date of the notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application: Provided that, if from any cause such service cannot take place, a proclamation notifying such application shall be published, by affixing it at the Mâl Cutcherry of such estate, or other conspicuous place thereon, or at the village Chowrie, Chowpal, or other conspicuous place in each village in such estate.

Proclamation in case of service of notice being impracticable.

In case of valid objection being made within time allowed, application may be refused.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection, be of opinion that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure if question of title, or of proprietary right be raised.

Reference to arbitrators.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to inquire into the merits of the objection. In the latter case, the Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil*

Judicature not established by Royal Charter) for the trial of orginal suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI. (relative to Arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Decision of Collector equivalent to decision of Civil Court, and open to appeal.

Appellate Court may, on appeal, stay partition.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the rules applicable to regular appeals to those Courts. Upon such appeal being made, the District or Sudder Court, as the case may be, may issue a precept to the Collector, desiring him to stay the partition pending the decision of the appeal.

Special Appeal to Sudder Court.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court, under the rules for the time being in force relating to special appeals to that Court.

Civil Court to entertain suits, only on appeal from Collector.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225, Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* to the contrary notwithstanding.

Notification on partition being ordered.

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the notification.

Partition by whom to be carried out.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or, if the estate be situate in two or more Districts, then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions, the partition shall be made by such Collector as the Board of Revenue shall order.

Assessment and levy of costs in partition.

XIV. The expense of making the partition, and the allowances of the establishment necessary for the measurement and survey of the lands, the preparation of papers, and any other charges, shall be fixed by the Collector. The amount shall be paid under such rules as may from to time be laid down by the Board of Revenue with the sanction of the local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

Partition may be stayed, and proceedings quashed, by Commissioner.

XV. At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act

exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

Decision not open to revision by Civil Court.

XVI. After the expiration of the period mentioned in the notification referred to in Section 12 of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Sections 11 and 12, Regulation IX., 1833 (*to modify certain portions of Regulation VII.*, 1822, *and Regulation IV.*, 1828; *to provide for the more speedy and satisfactory decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native Agency in the Revenue Department; and to declare the intent of Section* 5, *Regulation VII.*, 1822, *touching claims to Malikana*), may be used for the purposes of this Act: Provided that any of the proprietors shall be permitted to file a rent-roll of the estate, which shall be accepted if acknowledged to be correct by all the proprietors.

Procedure after lapse of period mentioned in the notification under Section 12.

XVII. The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partition, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take a copy of the same, and after such examination he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

Examination of the parties and their papers.

XVIII. The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of partition to arbitration. The partition and allotment of the public Revenue made by the parties, or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

Option of settlement by private agreement. Procedure in case of refusal or default.

XIX. If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbi-

If parties cannot agree as to arbitrators,

they may be appointed by Collector.

tration, but they cannot agree amongst themselves as to the arbitrator or arbitrators to be appointed, the Collector may appoint two or more persons to be arbitrators in the case. If the arbitrators are equally divided in opinion, the Collector shall act as umpire, and the partition made by the arbitrator or arbitrators with whom the Collector shall concur, shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to arbitration.

If votes be equal, Collector to act as umpire.

XX. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbitrator in his stead, in the same manner in which the first person was appointed.

Appointment in place of arbitrator refusing, or being unable, to act.

XXI. After the arbitrators shall have accepted the appointment, the Collector shall transmit the whole of the papers to them, and it shall be competent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award, which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

Powers of Collector with regard to arbitrators.

XXII. The arbitrators shall deliver a full and complete paper of partition, specifying the separate estates into which they propose that the estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

Particulars to be specified in partition paper.

XXIII. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount to be fixed by the Collector.

Remuneration of arbitrators.

XXIV. If the paper of partition be not delivered within the time fixed by the Collector, or within any further period to which the time may have been extended, the Collector may order that the partition shall be referred to another arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default of award by first arbitrators, partition may be referred to others.

XXV. If the partition of the estate cannot be made by the parties themselves, or by arbitration, under the foregoing rules, the Collector shall appoint an Officer to make the partition, and shall forward the whole of the papers to such Officer, and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.

XXVI. The Officer appointed to make the partition shall issue a proclamation at the Mâl Cutcherry of the estate, or other conspicuous place thereon, or at the village Chowrie, or Chowpal, requiring the several proprietors of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

Who shall summon proprietors by proclamation to attend proceedings.

Estate may be attached and brought under Khas management.

XXVII. At the commencement of the Revenue year current in the District, the Collector may direct the Officer appointed to make the partition, or some other person, to attach the estate, and to bring it under Khas management under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management, and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

Procedure in case of arrears of revenue accruing during course of partition.

XXVIII. If an arrear of public Revenue shall accrue on an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of any part of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the same manner as if no arrear of public Revenue had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which, under the partition, would have been allotted to the defaulting proprietor or proprietors: Provided, always, that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it until the partition shall have been completed, and the several proprietors shall have been put into possession of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

Powers of Officer charged with partition in respect of measurement, &c.

XXIX. If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powers for making such measurement and map as are vested in the Collector by any law for the time being in force.

Division of lands held in common.

XXX. When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in conformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-sharers shall be added to the lands held by them in severalty, and the several estates thus formed shall be assessed and declared separate estates: Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso.

Collector may refuse to separate lands in certain cases.

XXXI. The Collector may refuse to declare any lands held in severalty, and not liable to re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

Where no lands held in common, lands in severalty may be declared a separate estate.

Proviso as to transfers.

XXXII. Where there may be no lands held in common, the lands in severalty, held by the applicant for partition, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate: Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to, or directed by his order, as provided in Section 30, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Sharer failing to attend after proclamation, liable to forfeit his right of objection.

XXXIII. If any sharer, after the issue of the proclamation mentioned in Section 26 of this Act, shall fail to attend, the Officer appointed to make the partition during the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unless such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

Partition may be stayed if the parties so desire.

Recovery of costs.

XXXIV. If, at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

Estates formed by partition to be as compact as possible.

XXXV. It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages: Provided that, if the estate ordered to be divided, shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as possible.

Revenue to be assessed on each divided estate.

XXXVI. The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

Circumstances to be considered in making partitions.

XXXVII. In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation; the vicinity of roads, railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable; the number of tanks and wells; the state of the embankments and water-courses; and

any other local circumstances affecting the present, or likely to influence the future, value of the lands, shall be duly considered; and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

Rules when dwelling-house belonging to one sharer, is situate on ground to be alloted to another sharer.

XXXVIII. If a dwelling-house belonging to one sharer shall be situate on any land, or in any village, which it may be necessary to include in the share of another sharer, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall be fixed by the Officer making the partition, and shall be stated in the paper of partition.

Rules as to tanks, wells, water-courses, and embankments.

XXXIX. Tanks, wells, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such works, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of the partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Rules as to places of worship.

XL. Places of worship, which shall have been held in common previous to the partition of an estate, shall continue to be so held, unless the parties shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Officer making the partition shall enter a note of the agreement in the paper of partition.

Particulars to be contained in the paper of partition.

XLI. When the Officer appointed to make the partition shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector a paper of partition, showing how he proposes to divide the estate and to apportion the public Revenue. This paper shall specify the names of the mehals or villages included in each separate estate; the gross produce of each mehal and village for the three years immediately preceding the year in which the partition is ordered to be made; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments (if any) which shall have been made in respect to any tanks, places of worship, or other matters, as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map,

Map to be also submitted.

showing the several estates into which the estate is proposed to be divided.

Procedure of Collector thereon.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition and allotment of public Revenue, as proposed by such Officer, he shall submit a report to the Commissioner, together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and, in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

Commissioner may confirm or modify partition subject to appeal to the Board.

And may direct division by lot in certain cases.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

XLIV. On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, of the order passed on the appeal, the Collector shall cause the same to be published in his Office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession.

Government may order new allotment of public Revenue in case of fraud or error in original allotment being proved.

XLV. In order to prevent collusion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government, within twelve years from and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best evidence and information which may be procurable respecting the same. Such order shall not be liable to be contested in the Civil Court. The

parties whose estates may be declared to have been under-assessed shall be required to pay the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and, in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

Consequence to party having interest in any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

XLVI. If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit relating to such right, title, or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time: Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

Holder of decree of Civil Courts awarding right to portion of an estate, may apply for partition.

XLVII. Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or a part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

Union in certain cases of severed portions of estates originally joint.

XLVIII. If two or more estates, which may have originally formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may apply to have their shares united, and to hold them as one estate.

Application for such union how to be made and dealt with.

XLIX. The application for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

L. *Repealed by the Repealing Act XIV.*, 1870.

Provisions of Act may be applied to partition of estates held Rent-free.

LI. The provisions of this Act may, in so far as the same are applicable, be applied by order of the local Government to the partition of any estate held free from the payment of Government Revenue.

Control of Collector's proceedings under Act.

LII. In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

LIII. All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section 9, shall be open to revision by the superior Revenue Authorities.

What other Officers may exercise powers vested in Collector by this Act.

LIV. The powers vested in a Collector by this Act may be exercised by a Deputy Collector or other Officer vested with the full powers of a Collector, subject to the control of the Collector of the District.

Powers to be exercised by Collector, or Officer appointed to make partition.

LV. In carrying out the provisions of this Act, the Collector shall exercise the powers described in Regulation II., 1819, Regulation VII., 1822, and Regulations IX. and XIV., 1825. Any Officer appointed to make a partition under this Act may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

Powers of Officers exercising jurisdiction under this Act, with regard to false evidence.

LVI. If, in any case in which a Collector or other Officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

Board of Revenue to be guided by instructions of local Government.

LVII. In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law.

Interpretation.

LVIII. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Territorial scope of Act.

LIX. This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the General Regulations of that Presidency; but the Act may be extended, by order of the local Government, either wholly or in part, to any Non-Regulation Province under such Government.

ACT No. XX. OF 1863.

General.

1. Repealed.
2. Interpretation.
3. Local Government to make special provision respecting Mosques, &c., the nomination of the Trustee or Manager whereof is vested in, or subject to, the confirmation of Government.
4. If Mosque, &c., be under management of an independent Trustee or Manager, property in charge of Board of Revenue or local Agent to be transferred; and the powers and responsibilities of such Board and Agent to cease.
5. On appearance of person interested, Civil Court may appoint a Manager to a vacant Trusteeship, until some person shall establish his right to succeed to the office.
6. Powers and responsibilities of Trustee or Manager to whom property is transferred under Section 4, to continue as heretofore. Powers of the Board of Revenue or local Agent to be also exercised by such Trustee or Manager.
7. In cases under Section 3, Government to appoint in every Division or District one or more Committees, consisting of three or more persons, to perform the duties of the Board of Revenue and local Agents.
8. Committee to be appointed from amongst persons professing the religion of the Mosque, and in accordance with the wishes of those interested, to ascertain which an election may be held.
9. Members of Committee to be appointed for life, unless removed by the Civil Court for misconduct or unfitness.
10. Vacancies occurring to be filled up by election within three months. If not so filled up, Civil Court may appoint a person, or order remaining Members of Committee to do so.
11. Member of Committee not to act also as Trustee or Manager.
12. On appointment of Committee, property in charge of Board of Revenue or local Agent to be transferred; and the powers and responsibilities of such Board or Agent to cease.
13. Trustee to keep regular accounts, the production of which once a year may be required by the Committee.
14. Any person interested may sue a Trustee or Member of a Committee for misfeasance or breach of trust, whereupon the Court may direct performance of act, or may decree damages and costs, and direct removal of the Trustee or Member.
15. Interest, entitling a person to sue under the preceding Section, need not be pecuniary or direct or immediate. Right of attendance at worship, or of partaking in the distribution of alms, to be deemed sufficient.
16. Court may refer matter in difference to arbitration.
17. Parties may apply, under Section 312 of the Civil Procedure Code, for a reference to arbitration.
18. No suit to be instituted without leave. Court may order costs to be paid out of estate, in certain cases.
19. Court may order accounts of Trust to be filed, before or after institution of suit.
20. No Civil suit to affect any proceeding for Criminal Breach of Trust.
21. Portion of property may be retained under superintendence of Board of Revenue, if endowment be partly for religious and partly for secular purposes.
22. Except as provided, Government not to hold charge henceforth of property for support of any Mosque, &c., nor to appoint any Trustee or Manager.
23. Act not to prevent Government from taking steps to preserve buildings of antiquity or required for public convenience.
24. Interpretation of the word "India."

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

Whereas it is expedient to relieve the Boards of Revenue, and the local Agents in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX., 1810, of the Bengal Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance aud repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats)* and Regulation VII., 1817, of the Madras Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries or Chuttrums, and other public buildings; and for the custody and disposal of Escheats)*, so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof; or involve any connexion with the management of such religious establishments; and whereas it is expedient for that purpose to repeal so much of Regulation XIX., 1810, of the Bengal Code,

and Regulation VII., 1817, of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Number.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

"Civil Court," and "Court."

The words "Civil Court" and "Court" shall mean the Principal Court of original civil jurisdiction in the District in which the Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted, or application made, under the provisions of this Act.

Local Government to make special provision respecting Mosques, &c., in certain cases.

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section 1 are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any Public Officer; or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to independent Trustees, &c., of all property belonging to their Trusts, &c., remaining in charge of Revenue Board or others.

IV. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any Public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

Procedure in case of dispute, as to right of succession to vacated Trusteeship, &c.

V. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or

the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers and responsibilities of Trustees, &c., to whom any charge shall be transferred.

VI. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section 4 of this Act, as well as the condition of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or other religious establishment, and over such Trustee, Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section 4 of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent to whom such transfer is made.

Appointment of Committees.

VII. In all cases described in Section 3 of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section 21 of this Act.

Provisions as to qualifications for Member of such Committee.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons, in respect of such appointment, the local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government.

Every Member to be appointed for life, unless removed for misconduct, &c.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provisions for filling up vacancies.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining Members of the Committee shall, as soon as possible, give public notice of such vacancy and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections which shall be framed by the local Government; and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent, of the Mosque, Temple, or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment of Committee, Board and Local Agents to transfer property.

XII. Immediately on the appointment of a Committee as above provided, for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local Agents for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

Accounts of receipts and disbursements.

XIII. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple, or religious establishment to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of endowments and expenses of such Mosque, Temple, or other religious establishment; and it shall be the duty of every Committee of Management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of Breach of Trust, &c.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, Breach of Trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent, or Member of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, or Member of a Committee.

Nature of the interest entitling a person to sue.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trust. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

Reference to arbitrators.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI. of the Code of Civil Procedure shall in all respects apply to such order and arbitration in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

Reference under Section 312 of Civil Procedure Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Preliminary application for leave to institute suit.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. **The application may be made upon unstamped paper.* The Court, on the perusal of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. **In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit.* If the Court shall be of opinion that the suit has been for

Costs.

* The words in italics are repealed by Act VII., 1870, Section 2, Schedule 3.

the benefit of the Trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the estate.

The Court may require accounts to be filed.

XIX. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil suit to bar proceedings for Criminal Breach of Trust.

XX. No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

Provision for cases in which the endowments are partly for religious, partly for secular purposes.

XXI. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion (if any) of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount (if any) shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board, or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

XXII. Except as provided in this Act, it shall not be lawful, after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation or any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Effect of Act in respect of certain Regulations and of buildings of antiquity, &c.

XXIII. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

XXIV. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vict., c. 106, entitled "An Act for the better Government of India."

"India."

ACT No. XXI. OF 1863.*

British Burmah.

1. Governor-General in Council may establish Recorders' Courts in Akyab, Rangoon, and Moulmein: such Courts to be Courts of Record.
2. Barristers of not less than five years' standing to be appointed "the Recorders" of such Courts.
3. Recorder to make a declaration of Office.
4. One Recorder may be appointed for the three Courts, or one for any two of such Courts.
5. If there be only one Recorder, he shall hold his Court at least once in three months in Moulmein, once in four months in Akyab, and as often as necessary in Rangoon.
6. Recorder to notify the days on which he intends to hold his Court at the said Towns, respectively, during each year.
7. If unable to hold Court at the time notified, Recorder to issue a fresh notification.
8. Recorder may also hold Court at other than notified times.
9. If there be one Recorder for any two Courts, provisions of Sections 6, 7, and 8 to be applied as far as applicable.
10. Chief Commissioner may from time to time fix the local limits of the Recorders' Civil Jurisdiction in each Town, and no other Court shall have jurisdiction within such limits.
11. Recorder to receive, try, and determine suits of every description, except such as Courts not established by Royal Charter are barred from trying.
12. Chief Commissioner may direct transfer to Recorder's Court of any case instituted in any other Court in Burmah.
13. Except on application of parties, Recorder shall only try suits instituted in, or transferred to, the Court in which for the time being he is sitting.
14. A separate seal to be used for each Court, and to be kept in the Custody of the Recorder, or, in his absence, of the Register or Deputy Commissioner.
15. Subject to rules, Recorder to appoint and remove Ministerial Officers. Persons whose salary is Rs. 100 or upwards not to be removed without sanction of Chief Commissioner.
16. Recorder to license Advocates for the Courts, but an Advocate, &c., of the High Court may act without such license, and a suitor may appear and act for himself or for a co-suitor.
17. Recorder may, for sufficient reason, withdraw licenses granted by him.
18. Advocates' fees to be subject to the control and taxation of the Recorder.
19. Recorder may, under sanction, make rules for regulating the service and execution of process and the fees chargeable for such purpose.
20. Proceedings in Civil suits to be regulated by the Code of Civil Procedure.
21. Except in cases relating to marriage, inheritance, or succession, where there is a native defendant, all questions to be determined according to the law administered in the High Court in Bengal in its ordinary original Civil jurisdiction.
22. Recorder to submit a statement of the case for the opinion of the High Court, if he entertain a doubt on any question of law, usage, or the construction of a Document.
23. In such case Recorder may pass a decree, but execution not to issue until receipt of the order of the High Court.
24. Referred cases to be dealt with by two or more Judges of the High Court.
25. Parties may appear and be heard before the High Court, which shall transmit a copy of its judgment to the Recorder.
26. Costs of reference to High Court to be costs in the suit.
27. Appeal to lie to High Court in suit exceeding in value 3,000 Rupees, but less than 10,000 Rupees.
28. A new trial may be granted, if applied for, in the case of immoveable property within three months, and in all other cases within thirty days, from date of decision; but such power not to interfere with the power to allow a review of judgment under the Civil Procedure Code. Recorder may in either case require security for compliance with the terms of the decree.
29. Recorder to have jurisdiction in cases arising under Acts XIX. of 1841, XXXV. of 1858, XI. of 1858, and XXVII. of 1860. Orders passed in such cases not open to appeal, but they may be contested in a regular suit.
30. Assessors may be appointed in Civil suits, but decision to rest with the Recorder.
31. Governor-General in Council may appoint a Registrar to each or any of the Recorders' Courts.
32. Registrar to receive plaints and documents, issue notices and processes, and fix days of hearing.
33. If Registrar consider plaint defective, he may with consent amend it, or forward it for orders.
34. Registrar may on application execute decrees. No appeal from any order passed in such cases, but the Recorder may, of his own motion, reverse or modify such order.
35. Subject to general control, the Registrar to have the power of a Small Cause Court Judge in claims not exceeding 200 Rupees. Governor-General in Council may invest any Registrar with power to hear claims not exceeding 500 Rupees.
36. Such suits to be heard under Act XLII. of 1860. Recorder may transfer to his own file any suits on the file of the Registrar.
37. No appeal from decision of Registrar, but he may state a case for the opinion of the Recorder.
38. Recorder may refer for trial to the Registrar, any case not exceeding in value 100 Rupees. An appeal to lie in such suits to the Recorder, whose decision shall be final. But the Recorder may state a case for the opinion of the High Court.
39. In suits, of the value of 10,000 Rupees or upwards, an appeal lie to Her Majesty in Council, subject to the ordinary Rules.
40. Except as to European British subjects charged with capital offences, Recorder to exercise all the powers of a Court of Session.
41. European British subjects charged with offences not punishable by a Justice of the Peace, to be committed for trial before the Recorder having jurisdiction.
42. Proceeding on trials held by the Recorder as a Court of Session to be regulated by the Code of Criminal Procedure.
43. Sentences of death passed by the Recorder not to be carried into execution until confirmed by

* Act III., 1866, is to be read with, and taken as part of, this Act.

the Chief Commissioner, who may commute a sentence of death to transportation for life, or for any period not less than seven years.

44. No appeal in Criminal cases, but Recorder may reserve points of law for opinion of High Court.

45. On such reservation, or on a Certificate that there has been error in the decision of a point of law, or that it should be further considered, High Court may review the case and alter the sentence.

46. Repealed.

47. Commissioner may sit with Recorder in any Civil or Criminal case, and record his opinion.

48. With the sanction of the Chief Commissioner, the Commissioner may, in the absence of the Recorder, exercise all the powers vested in the Recorder.

49. Recorder to keep such Registers, &c., and to submit such returns, &c., as the Chief Commissioner shall prescribe.

50. "Barrister" to include Barristers of England or Ireland, Members of the Faculty of Advocates in Scotland, and Advocates of any High Court or Colonial Supreme Court.

An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the the said Towns.

Preamble.

Whereas the Resolution of the Governor-General in Council, dated the 31st January, 1862, declares that, instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full powers of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British subjects are charged with capital offences; and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively; It is enacted as follows:

Government may establish Courts for certain Towns in British Burmah

I. It shall be lawful for the Governor-General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called, respectively, the "Court of the Recorder of Akyab," the "Court of the Recorder of Rangoon," and the "Court of the Recorder of Moulmein." Such Courts shall be Courts of Record.

The designation, appointment, &c., of the Judges of such Courts.

II. The said Courts, respectively, shall be held before a Judge who shall be called "The Recorder" thereof, and who shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing. Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor-General in Council.

Declaration to be made by Recorder.

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following declaration before such Authority or person as the Governor-General in Council may commission to receive the same:—

"I, A. B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgment."

Government may appoint one Recorder only, or more.

IV. The Governor-General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

If there be only one Recorder, how Court shall be held.

V. So long as there shall be only one Recorder of the said three Courts, such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He shall hold his Court in Rangoon, at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

Notification by Recorder, as to time and place of holding Court.

VI. The Recorder shall, on or before the 1st day of January in each and every year, or at such other convenient times as the Chief Commissioner of British Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court is to be held, the days on which he intends to hold his Court at the said Towns, respectively, during the then next ensuing twelve months: and a copy of such notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns, respectively.

Procedure in case of Recorder being unable to hold Court in way notified.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any notification issued under the last preceding Section, he shall fix another period for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a notification under the said Section is directed to be published.

Recorder may hold Court at other than notified times.

VIII. Notwithstanding anything in Sections 6 and 7 of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

Sections 6 to 8 how to be applied, when there is one Recorder for two Courts.

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections 6, 7, and 8 of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder.

Civil Jurisdiction of Recorder.

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor-General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns: Provided that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid, as often as he shall think proper, to vary or alter the limits so fixed: and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

Proviso as to the alternation of local limits.

Suits cognizable by Recorders.

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other immoveable property such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary jurisdiction of their respective Courts: Provided that the Recorders shall not take cognizance of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor-General of India in Council.

Proviso.

Transfer of cases from other Courts to Recorder's Court.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted in any Court in British Burmah other than a Recorder's Court. Every case so transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects, as if the Recorder had originally had jurisdiction in the case, and the case had originally been instituted before him.

Such cases how to be dealt with.

Rule as to the trial of suits by a Recorder having jurisdiction in more than one Court.

XIII. A Recorder, who is the Recorder of more Courts than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided; but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

Seal of Courts. Custody of same.

XIV. A separate seal shall be made under the direction of the Governor-General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to, and kept in the custody of, the Recorder; but during any absence of the Recorder, or in case of the vacancy of the Office of Recorder, the same shall be delivered to, and kept in the custody of, the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to, and kept in the custody of the Deputy Commissioner.

Appointment and removal of Ministerial Officers.

XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by the said Recorder, in such Court or Courts respectively, and the due execution of the powers and authorities given to him by this Act; and every Clerk and Officer appointed as aforesaid shall be liable to dismissal

by order of the Recorder of the Court to which he is appointed: Provided that no person shall be removed from any Office, the salary of which is 100 Rupees per mensem or upwards, without the sanction of the Chief Commissioner.

Licensing of Advocates, and rules as to qualification and admission.

XVI. No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this Act, to make rules for the qualifications and admission of proper persons to act as Advocates in such Court: Provided that nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf, or on behalf of a co-suitor: Provided, also, that any person, who for the time being is an Advocate, Vakeel, or Attorney-at-Law of any of the High Courts of Judicature in India, shall be entitled, without any license, to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

Saving of Agent for Secretary of State, &c.

And of Advocates, &c, of High Court.

License may be withdrawn.

XVII. The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person to act, generally or specially, as an Advocate under this Act.

Advocates' fees, &c., to be subject to taxation.

XVIII. The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section 16 of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having jurisdiction in the case in respect of which such fees are payable, and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

Rules for service and execution of process, and table of fees for same.

XIX. It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or Courts within the territorial limits of his jurisdiction and also to settle a table of fees to be allowed to the persons employed in such service or execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts: Provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the

Publication of same.

Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

Proceedings in Civil suits how to be regulated.

XX. Save as in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in any Court established under this Act, shall be regulated by Act VIII. of 1859 *(the Code of Civil Procedure)*, as amended by Act XXIII. of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

Law as administered in Calcutta High Court, in its ordinary original civil jurisdiction, to obtain in all suits.

XXI. In all suits cognizable by any Court held under this Act, all questions as well of fact as of law or equity shall be dealt with and determined according to the law administered by the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction: Provided that this Section shall not apply to any case heard and determined by the Court held under this Act, in which a native of British India is a defendant, and in which any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

Saving of certain cases.

In case of doubt as to certain questions, a statement may be submitted for decision of the High Court.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

And decree may pass contingent thereon; execution not to issue till receipt of decision.

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full Bench of High Court to deal with referred cases.

XXIV. Cases referred for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

Parties may appear in person, or by Advocate, &c. Transmission of judgment of High Court, and the proceedings thereon.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformable to the decision of the High Court.

Costs of the reference to the High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court shall be costs in the suit.

Appeal to High Court in certain cases.

XXVII. In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed 3,000 Rupees, and be less than 10,000 Rupees, an appeal shall lie to the High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

Grant of new trial on application within given time.

XXVIII. It shall be competent to the Recorder, if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of decision: Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications: Provided also, that in any case in which the Recorder may think it necessary to do so, he may, before granting a new trial, or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

And review of judgment.

Security from applicant for either.

Recorder may receive and dispose of all cases under certain Acts, subject to provisions as to jurisdiction.

XXIX. All cases and proceedings arising under Act XIX. of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of successions)*, Act XXXV. of 1858 *(to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Court of Judicature)*, Act XL. of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)*, as amended by Act IX. of 1861 *(to amend the law relating to Minors)*, or Act XXVII. of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)*, may be received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Recorder in cases arising under the said Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

And his orders in such cases not open to appeal.

No other Court to deal therewith, within the jurisdiction of Recorder.

Assessors to sit in Civil suits.

XXX. For the trial of Civil suits under this Act, the Recorder may constitute one or more persons Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section, but this prohibition shall not extend to any other public Officer.

Appointment of Registrar.

XXXI. It shall be lawful for the Governor-General in Council to appoint, to each or any of the Recorder's Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed.

His duties.

XXXII. The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall, subject to the provisions in the next following Section contained, receive all plaints presented to the Court; and, in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses; he shall also keep lists of all causes coming on for trial, and shall fix such days for their being heard respectively, as may seem to him fit, having regard to the period appointed for the Recorder's sittings.

Procedure in case of plaint being defective in some particulars.

XXXIII. If the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section 31, or Section 32, of the Code of Civil Procedure, he shall not reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall, with as little delay as possible, forward the plaint to the Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make; and such plaint shall be dealt with as the Recorder shall order: Provided, always, that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made.

Proviso.

Execution of decrees by the Registrar.

XXXIV. The Registrar shall also receive applications for the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so.

Registrar to have powers of Small Cause Court Judge in certain cases.

XXXV. The Registrar shall have the powers of a Small Cause Court Judge in suits of the nature of those described in Act XLII. of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, arising within the limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed 200 Rupees; but he shall exercise such powers subject to the general control of the Recorder. The Governor-General in Council may invest any Registrar appointed under this Act, with jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed 500 Rupees.

Registrar may be invested by Governor-General with higher powers.

XXXVI. The suits cognizable by the Registrar under the last

Suits cognizable by Registrar how to be heard, &c.

preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII. of 1860; and, subject to such rules as to procedure and otherwise, in all respects, as are in the said Act contained: Provided that the Recorder, whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

Transfer from Registrar's file to that of Recorder.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section 22 of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions hereinbefore contained, relative to the stating of a case by the Recorder, shall apply *mutatis mutandis* to the stating of a case by the Registrar, so far as the same are applicable.

No appeal from decision of Registrar under last Section, but, in case of doubt, a statement may be submitted for opinion of the Recorder.

Rules applicable to such reference.

XXXVIII. It shall be lawful for the Recorder to refer to the Registrar of his Court any suit, not falling within the description of suits contained in Act XLII. of 1860, which shall be instituted in the Court of such Recorder, and the amount or value of the property in dispute in which shall not exceed 100 Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed, by him, under the same rules, as to procedure and otherwise, as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact, from the Registrar's decision to the Recorder, under the rules for regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final; but the Recorder shall be at liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

Recorder may refer certain suits to Registrar. Rules respecting trial of same.

Reference to High Court.

XXXIX. In all suits heard and determined by a Recorder under this Act, in which the sum or matter at issue is 10,000 Rupees or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of 10,000 Rupees or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in

Appeal to the Queen in Council in certain cases.

Council, from decisions of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.

Recorder to exercise power of Court of Session, and to hold Gaol deliveries for trial of offenders.

XL. The Recorder shall exercise all the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder; and shall, at the place or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections 6 and 7 of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court of Session: Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Court. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the jurisdiction of any Recorder's Court, for offences punishable under the Indian Penal Code, shall be made to that Court.

Proviso as to European British subjects charged with offences punishable with death.

Commitment and trial of such subjects, when charged with offences not punishable with death.

XLI. If any European British subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code), which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed: that is to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu; before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

Proceedings of Recorder as Court of Session how to be regulated.

XLII. The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the provisions of this Act, in so far as the same may be found applicable.

Execution or commutation of sentence of death.

XLIII. If on any trial sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order, &c., of Recorder in Criminal case, but he may reserve points for opinion of High Court.

XLIV. No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

Review of case and alteration of judgment by High Court.

XLV. On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Fort William that, in his judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right.

XLVI. *Repealed by Act VII.*, 1870, *Section* 2, *Schedule* 3.

Commissioner may sit with Recorder in any suit, and record opinion.

XLVII. The Commissioner of the Division within which the said Town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division; and may record his opinion in any case in which he may so sit.

And may, in the absence of Recorder, sit in Court and exercise all powers.

XLVIII. If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules, provisions, and limitations, herein prescribed and declared: Provided that no Commissioner shall act as Recorder, or exercise any authority under this Section, without the sanction of the Chief Commissioner first obtained.

Recorder to keep such registers, &c, and to submit such returns, &c, as Chief Commissioner shall prescribe.

XLIX. The Recorder shall keep such Registers, and Books, and Accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court, on the Civil and Criminal sides, as may be prescribed by the said Chief Commissioner, with the approval of the Governor-General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Chief Commissioner, for records.

Interpretation of "Barrister."

L. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or Members of the Faculty of Advocates in Scotland; or Advocates of any High Court or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

ACT No. XXIII. OF 1863.

General.

1. Collector to make enquiry into claims to waste land and objections to the sale thereof, preferred within the period mentioned in the advertisement of sale

2. Collector may admit or reject evidence produced in proof of claim or objection. If land be sold subject to any condition, notification thereof to be made at the time of sale.

3. Collector to postpone sale pending enquiry, and if claim or objection be rejected, further postponement to be made to allow such order to be contested.

4 Collector to stop the sale, if he consider claim or objection established If, on the order of Government to try the claim or objection under Section 6, it be not established, sale may afterwards be proceeded with.

5. Order of Collector rejecting claim or objection to be final, if notice of intention to contest be not given within a week. Suit to be instituted within three months of receipt of notice of confirmation of order.

6 Local Government may, within twelve months, direct a suit to be brought to try any claim admitted by the Collector.

7. Government to constitute Courts consisting of three or more persons, of whom Judge of principal Civil Court in each District to be one, unless such person be the Officer who held the original enquiry

8 On the constitution of any such Court, proclamation thereof to be made, and thereafter no other Court to entertain any such claim or objection

9. Courts to be held at most convenient places within the limits of jurisdiction

10 In suits under Section 5 claimant or objector to appear as plaintiff, and the Collector or other Officer as defendant on the part of Government. In suits under Section 6, Government to appear as plaintiff, and claimant or objector as defendant

11 Proceedings to be regulated by the Code of Civil Procedure

12 Notice to be given of day of hearing, when parties to bring their witnesses and documents. Subpœnas may be issued, and personal attendance of claimants and objectors required

13 On day of hearing, order to be passed after examination of the parties and their witnesses and inspection of documents

14 Such order not open to appeal or revision.

15 Court may refer doubtful questions of law or usage or the construction of a document to the hightest Court of appeal Court bound to make such reference if the question involve a principle of general importance or the rights of a class

16 Court may proceed in the case notwithstanding such reference, but no final order to be passed until receipt of the order of the Court of Appeal

17 Records of Courts under this Act to be deposited in the principal Civil Court of the District

18 No claim to land or compensation for the sale thereof admissible after three years from date of sale. If sufficient reason be given why suit was not brought within the period fixed in Section 1, claim may be filed

19 If claim be established, and land shall have been sold, Court not to award possession, but may order compensation in a sum equal to the price of sale, with costs of suit

20 If the land has not been absolutely sold, Court may award to the claimant such sum for his interest in the land as may be awarded under Act VI of 1857

21 Award under two preceding Sections to be in full satisfaction of all claims on the same cause of action, or on any cause which existed prior to date of sale

22. Government may award compensation within the limit prescribed in Section 19, for land absolutely sold, though claim be not preferred in time

23 If land be sold subject to condition, Government may award to the claimant compensation for his interest in the land though the claim be not preferred in time.

24 Interpretation.

An Act to provide for the adjudication of claims to waste lands.

Preamble.

Whereas it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:

Provision for inquiry into claims to land, or into objections to sale of same.

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District, by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

II. The Collector or other Officer as aforesaid, shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Pending the enquiry, sale, &c., to be postponed.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or

objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Sale to be stopped if the claim appear good but may afterwards be proceeded with.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land: but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the local Government to try the claim or objection, as provided in Section 6 of this Act, the claimant or objector shall fail to establish the same.

Procedure after passing of order in the case.

V. If the Collector or other Officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection; and such Board, or other Authority, on the receipt of such Report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

Report to Revenue Board.

Decision of Board.

Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.

VI. The local Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Special Court for trying claims.

VII. For the investigation and trial of claims under this Act, the local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less

than three; of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District, by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case, as may be necessary prior to the hearing of the suit: Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original jurisdiction in the District, such Officer shall not be a member of such Court.

Notice of constitution of Special Courts Claims not cognizable in other Courts.

VIII. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the Offices of the several Collectors and Magistrates of the District: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Special Courts where to be held.

IX. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Plaintiff and defendant in suits under Section 5.

X. In every suit instituted under Section 5 of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff, and the Collector or other Officer as aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent: Provided that, if such other Officer as aforesaid be the presiding Officer of the principal Civil Court of original jurisdiction in the District, the local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the local Government under Section 6 of this Act, the Government, by any Officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Proviso.

Plaintiff and defendant in Suits under Section 6.

Proceedings to be regulated by the Civil Procedure Code.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Procedure before hearing of suit.

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

Procedure on hearing.

XIV. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

No appeal or revision.

XV. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts; the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is situate: Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Reference of question of law, &c., to High Court, &c.

Such reference to be obligatory in certain cases.

XIV. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

Court may proceed notwithstanding reference.

XVII. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

Record where to be deposited.

XVIII. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with. If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under

Limitation as to claims to land sold or dealt with.

Provision for such claims if made within time.

Section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid, if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

If claim held good, possession not to be given, but compensation.

XIX. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

When land has not been sold absolutely, but has been otherwise dealt with.

XX. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established; the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI. of 1857 (*for the acquisition of lands for public purposes*); and thereupon the local Government shall proceed under the said Act, to obtain an award of the value of such interest.

Award under the two last Sections to be in full satisfaction.

XXI. An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Government may compensate for land absolutely sold, though claim be not made in time.

XXII. Nothing in this Act shall be held to prevent the local Government from awarding, to any claimant of waste land sold on account of Government, on proof to the satisfaction of the local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper.

Compensation for land sold subject to condition, if claim proved.

XXIII. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the local Government, although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period

prescribed by this Act, the local Government may award to such claimant or objector, such amount as to such local Government may appear to be the value of the interest of such claimant or objector in such land.

Interpretation.

Number.

Gender.

XXIV. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

ACT No. XXIV. OF 1863.

British Burmah.

1. Governor-General in Council may invest Courts of 2nd, 3rd, and 4th grades with power to receive and try suits cognizable by a Court of a lower grade.
2. Appeals from such suits to lie to the Court to which appeals from decisions passed in its ordinary jurisdiction would lie
3. Deputy Judicial Commissioner at Rangoon to receive and try suits cognizable by a Deputy Commissioner under Act I. of 1863.
4 & 5. Repealed.

An Act to amend Act I. of 1863 (*to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.*)

Preamble.

Whereas it is expedient to amend Act I. of 1863 (*to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory*); It is enacted as follows:

Government may invest certain Courts in British Burmah with power to try suits, &c., now cognizable by Courts of lower grade.

I. It shall be lawful for the Governor-General of India in Council to invest any Court in British Burmah of the second, third, and fourth grades of Courts mentioned in Section 2 of the said Act I. of 1863, with power to receive suits, and to take cognizance of other matters arising within the jurisdiction of the Court so invested, which from their amount as well as in other respects may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same subject to all the provisions of the said Act.

Provision for appeals from orders and decisions in suits, &c., dealt with under above Section.

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits or other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I. of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals.

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

III. The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I. of 1863, be a Court of a Deputy Commissioner as constituted by the said Act; and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

IV., V. *Repealed by the Repealing Act XIV.*, 1870.

ACT No. XXIX. OF 1863.

General.

An Act to declare the receipts of the Banks of Bengal, Madras, and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George, and Bombay respectively.

Preamble.

Whereas, under the provisions of Act XXIV. of 1861 (*to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has, through the Governor-General of India in Council, entered into an agreement with the Secretary of State for India in Council, that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank: and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively: and whereas the office of Sub-Treasurer at Fort William, and the office of Sub-Treasurer at Fort St. George, and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras, and Bank of Bombay respectively: and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal, or of the Secretary of the Bank of Madras, or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given: and whereas it is desirable that these doubts should be removed; It is enacted as follows:

Receipts of Secretaries of the Banks to be good in lieu of those of the Sub-Treasurers.

I. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

All Acts in which the Sub-Treasurers at the Presidencies are named, to be read as if the Banks' Secretaries were named instead.

II. In every Act and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the

Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

ACT No. XXXI. OF 1863.

General.

An Act to give effect to the publication of certain orders and other matters in the Gazette of India.

Preamble.

Whereas the Governor-General of India in Council has resolved to publish an Official Gazette to be called the Gazette of India, containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein; It is enacted as follows:

Publication in Gazette of India to have effect of publication in any other Gazette in which publication is prescribed by law.

I. When in any Regulation or Act now in operation, or in any Rule having the force of law, it is directed that any order, notification, or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification, or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor-General of India in Council.

ACT No. XXXII. OF 1863.*

High Court (Bengal.)

An Act to continue in force Act XX. of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.)

Preamble.

Whereas it is expedient that Act XX. of 1862 *(to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court)* should continue in force for a further period from the 1st day of January, 1864; It is enacted as follows:

Act XX. of 1862 continued till such date as the Governor-General in Council shall appoint.

I. Act XX. of 1862 shall continue in force until such time as the Governor-General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

ACT No. II. OF 1864.

Aden.

1. Interpretation.

CIVIL JURISDICTION.

2. Administration of Civil Justice at Aden vested in the Court of the Resident.
3. Resident may try in the first instance all cases instituted in his Court, of whatever nature or amount.

* This Act, so far as it relates to Fees and Stamp Duties, is repealed by Act VII., 1870, Section 2, Schedule 3.

4 Assistant Residents may try all such cases that may be allotted to them for trial by the Resident.
5 In suits relating to immoveable property or exceeding 500 Rupees in value, tried by an Assistant Resident, an appeal to lie to the Resident. Also, from orders passed in execution of a decree and orders passed in cases other than regular suits
6. For the hearing of appeals, the Resident to exercise the powers of a District Judge in Bombay.
7. No appeal in suits relating to moveable property not exceeding 500 Rupees in value, but the Resident may call for the proceedings.
8. No appeal from any decision of the Resident In all cases he may refer to the High Court in Bombay any question of law or usage or of the construction of a document; but in cases above 1,000 Rupees in value, such reference must be made on the application of any party
9. Pending such reference, the Resident may proceed in the case and pass a decree; but until the receipt of the order of the High Court, execution not to issue.
10. Such reference to be heard by two or more Judges
11. Parties may appear and be heard in person or by pleader.
12. High Court to transmit its judgment to the Resident, who shall dispose of the case in accordance therewith.
13. Costs of reference to be costs in the suit.
14 Resident, and every Assistant vested by the Governor in Council with such powers, to have the powers of a Small Cause Court Judge in suits cognizable under Act XLII of 1860
15. The spirit of the laws in force in Bombay to be observed in the administration of Civil Justice in Aden.

CIVIL PROCEDURE.

16. Proceedings in Civil cases to be regulated by the Code of Civil Procedure.

CRIMINAL JURISDICTION.

17. Administration of Criminal Justice vested in the Court of the Resident.
18. Assistant Residents may be invested with the powers of Magistrate or Subordinate Magistrates.
19. An appeal shall lie only in cases where the punishment awarded by an Assistant Resident shall be imprisonment exceeding six months or a fine exceeding 500 Rupees In other cases the Resident may call for the proceedings.
20 Resident to exercise the powers of a Court of Session, and also of a Magistrate, except in cases triable before himself as a Court of Session.
21. Resident to hold jail deliveries at convenient periods, but not to try European British subjects charged with offences punishable with death Such persons to be committed to the High Court of Bombay.
22. European British subjects charged with other offences, not punishable by a Justice of the Peace, to be committed for trial to the Court of the Resident.

CRIMINAL PROCEDURE.

23. Proceedings in Criminal cases to be regulated by the Code of Criminal Procedure.
24. Europeans and Americans to be tried by Jury, to consist, if the accused desire it, and such a jury can be procured, of at least one half Europeans or Americans.
25. Resident to prepare a list of persons qualified to serve
26. List to be published, and time and place of hearing objections to be notified
27 Provisions of the Criminal Procedure Code as to Juries and list to be applied, except as to the exemption of persons in the Military service.
28. Sentence of death passed by Resident not to be carried into execution without confirmation of High Court, who may commute such sentence to transportation for life or any shorter period not less than seven years.
29 No appeal from the Resident in Criminal cases, but points of law may be reserved for the opinion of the High Court.
30. On such reservation, High Court may review the case and pass judgment and sentence.

GENERAL RULES.

31. High Court to make Rules for regulating the practice and proceedings of the Resident's Court.

An Act to provide for the administration of Civil and Criminal Justice at Aden.

Preamble.

Whereas the administration of Civil and Criminal Justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the 22nd June, 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice-Admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 and 13 Vict., c. 84; and whereas the Criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in Civil matters and the precise nature of the Criminal and Civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of Justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay; It is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say :—

"Resident."

The word "Resident" denotes the Chief Civil Officer at Aden appointed by the Government, by whatever designation such Officer may be called, and includes any Acting Resident or Officer acting temporarily as such Chief Civil Officer.

"Assistant to Resident."

The words "Assistant Resident" denote any Officer appointed by the Government to assist the Resident at Aden, by whatever designation such Officer may be called, and includes an Acting Assistant.

"Court of the Resident."

The words "Court of the Resident" include the Court of any Assistant Resident.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

CIVIL JURISDICTION.

Administration of Civil Justice vested in the Court of the Resident.

II. The administration of Civil Justice at Aden is hereby declared to be vested in the Court of the Resident.

Resident may try, in the first instance, all cases instituted in the Resident's Court.

III. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

Assistant Residents may try cases allotted to them.

IV. The Assistant Resident shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute. The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

Appeal in what cases to lie from Assistant Resident to Resident.

V. When any suit which relates to immoveable property, or in which the claim, estimated according to any law for the valuation of claims for the time being in force, shall exceed 500 Rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident. An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

Powers of Resident in hearing appeals.

VI. For the hearing and determination of appeals from decisions and orders under the last preceding Section, the Resident shall (save as is herein otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Courts subordinate to him.

No appeal in other cases.

VII. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property, in which the claim estimated as aforesaid shall not exceed 500 Rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceedings of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal from Resident.

He may refer questions of law, &c., to High Court.

VIII. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or in the exercise of his jurisdiction as a Court of Appeal or of Revision; but if, in the trial of any suit in which the claim estimated as aforesaid shall not exceed 1,000 Rupees in value, any question of law, or of usage having the force of law, or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay: and if, in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed 1,000 Rupees in value, any question of fact, or of law, or of usage having the force of law, or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of the parties to the suit, or he may, of his own motion, draw up a statement of the case, and submit it, with his own opinion, for the decision of the said High Court.

Resident may pass decree contingent upon the opinion of the High Court, but execution not to issue.

IX. The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full bench of the High Court to decide referred cases.

X. Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court. Before giving judgment, the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

The parties may appear and be heard in person or by pleader.

XI. The parties to the case may appear and be heard in the High Court in person or by a pleader.

Decision of High Court how to be transmitted.

XII. The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court and the signature of the Registrar; and the Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of the reference.

XIII. Costs (if any) consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

XIV. When any suit tried in the first instance by the Resident is of

Resident to have powers of a Small Cause Court.

such a nature as to be cognizable under Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act, or any other Act for the time being in force, not being an Act relating to Courts of Small Causes in the Presidency Towns; and every Assistant Resident, who shall have been vested by the Governor of Bombay in Council with the powers of Judge of a Court of Small Causes as defined in the said Act XLII. of 1860, or any Act passed in supersession thereof, shall have the like powers and be guided by the like provisions in any suit tried by him in the first instance, and of a nature cognizable under the said Act XLII. of 1860, any thing in Section 5 of this Act contained to the contrary notwithstanding.

Administration of Civil Justice to be according to spirit and principle of the Bombay Laws and Regulations.

XV. In the administration of Civil Justice, the Court of the Resident shall be guided by the spirit and principles of the Laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of appeal from those Courts.

CIVIL PROCEDURE.

Code of Civil Procedure to be applicable.

XVI. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident, shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

CRIMINAL JURISDICTION.

Administration of Criminal Justice vested in Court of the Resident, but subject to proviso.

XVII. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Governor of Bombay may give Assistant Residents certain powers.

XVIII. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Appeal from an Assistant Resident to Resident, in what cases.

XIX. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months, with or without fine, or shall be only a fine exceeding 500 Rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident. No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding 500 Rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceed-

ings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Resident to have powers of Court of Session, and also of a Magistrate.

XX. The Resident shall, except as in this Act is otherwise provided, exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also, when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

As a Court of Session, to hold Gaol deliveries.

XXI. The Resident in the exercise of his powers as a Court of Session shall hold Gaol deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law in force for the time being, who may be committed to take their trial before him as a Court of Session: Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay. In all other cases the commitments made within the limits of the jurisdiiction of the Court of the Resident for offences punishable under the Indan Penal Code, shall be made to the Court of the Resident.

British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay.

Commitment and trial of such subjects, when charged with other offences.

XXII. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code,) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

Criminal Procedure.

Proceedings in Criminal cases how to be regulated.

XXIII. Save as in this Act otherwise provided, the proceedings in all Criminal cases of any description brought in any Court in Aden, shall be regulated by the Code of Criminal Procedure.

Trial of all Europeans or Americans by the Resident to be by Jury.

XXIV. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person, or one of the accused persons, shall be by Jury, and in such case the Jury, if such European or American shall desire it, shall consist of at least one-half Europeans or Americans, if such a jury can be procured.

List of Jurors.

XXV. The Resident shall from time to time prepare and make out in alphabetical order, a list of persons residing at Aden who are, in the judgment of the Resident, qualified from their education and character to serve as Jurors. The list shall contain the names, places of abode, and quality or business of every such person, and shall mention the race to which he belongs.

Publication of List.

XXVI. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be

heard and determined by the Resident at a time and place mentioned in the notice.

Provisions of Criminal Procedure Code to apply to Jurors.

XXVII. All the provisions of the Criminal Procedure Code as to Jurors and the list of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the list of Jurors under this Act: Provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military service: Provided also, that the Jurors shall be summoned by the Resident.

Persons in Military service not exempted from serving as Jurors.

Execution or commutation of sentence of death.

XXVIII. If on any trial sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay. It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order of Resident, but he may reserve points for High Court.

XXIX. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case. But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

Review of case by High Court.

XXX. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

GENERAL RULES.

High Court to frame rules for Resident's Court.

XXXI. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form: Provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

ACT NO. III. OF 1864.

General.

1. Interpretation.
2. Onus of proof that person is not a Foreigner to lie upon person alleged to be one.
3. Governor-General in Council may order any Foreigner to remove himself from India generally, or by a particular route; and any local Government may make a like order.
4. Foreigner refusing to remove, or returning to India, without a license, may be apprehended and detained until discharged by order of Government.
5. Governor-General in Council may, by notification, put into force in any part of India, for any period, the provisions of this and the subsequent Sections of this Act respecting Foreigners residing or travelling in the country; Foreign Ministers, Consuls, persons in the service of Her Majesty, and persons under 14 years being exempted.

6. Foreigner arriving in a place where all the provisions of this Act are in force, to report himself to the person appointed to receive such reports.
7. Report to be in writing, and to specify his name, nation, place of destination, and objects of pursuit.
8. Sections 6 and 7 not to extend to persons employed in a vessel, but such persons to report themselves on cessation of employment.
9. Persons neglecting to report themselves, to be dealt with as Foreigners travelling without a license.
10. No Foreigner to travel, without a license, in any place where all the provisions of this Act are in force.
11. Licenses may be granted under the signature of a Secretary or other Officer specially appointed to grant licenses.
12. Licenses to state the name of the licensee, his nation, his travelling limits, and the duration of the license.
13. License may be granted subject to conditions, and may be revoked at any time.
14. Foreigner travelling without a license, or beyond the prescribed limits, or violating any condition of such license, may be apprehended without a warrant.
15. Magistrate to report apprehension to the local Government.
16. Person apprehended to be admitted to bail and put to as little inconvenience as possible.
17. Local Government may order such person to remove himself by a particular route, or may cause him to be so removed. Governor-General in Council may exercise similar powers.
18. Governor-General in Council may prohibit persons, not being natural-born subjects of Her Majesty, from passing through any part of India without a license; persons disobeying such order may be apprehended and treated as Foreigners.
19. Local Government to have the like powers.
20. Police Officers may search vessels for Foreigners bound to report themselves under Section 6. Master, if required, to deliver a list of the passengers, with particulars. If any Foreigner do not give a satisfactory account of his objects of pursuit in India, he may be dealt with as if travelling without a license.
21. Master refusing to answer questions or making a false report, to be held to have committed an offence under Section 177 of the Penal Code.
22. Master neglecting or refusing to comply with requisitions of Act, liable to a fine of 1,000 Rupees.
23. Person obstructing Officer under this Act to be held to have committed an offence committed under Section 186 of the Penal Code.
24. Fines imposed for offences committed within or beyond the Presidency Towns, to be equally recovered under Section 26 of Act XLVIII. of 1860.
25. Governor-General in Council or local Government may exempt any person or class of persons from all or any of the provisions subsequent to Section 5.

An Act to give the Government certain powers with respect to Foreigners.

Preamble.

Whereas it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India," shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, chap. 106, entitled "An Act for the better Goverment of India":

"Local Government."

The words "Local Government" shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General of India in Council published in the *Gazette of India* be authorized to exercise the powers vested by this Act in a local Government.

"Foreigners."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV., chap. 85, Section 81, or a Native of British India:

"Magistrate of the District."

The words "the Magistrate of the District" shall denote the Chief Officer charged with the executive administration of a District, and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with the executive administration is styled, or, in the absence of such

Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Vessel."

The word "Vessel" shall include any thing made for the conveyance by water of human beings or property.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

Proof of being a Foreigner.

II. If a question shall arise whether any person alleged to be a Foreigner, and to be subject to the provisions of this Act, is a Foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Government may order any Foreigner to remove himself.

III. The Governor-General of India in Council may, by writing, order any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any local Government may, by writing, make the like order with reference to any Foreigner within the jurisdiction of such Government.

Foreigner refusing to remove, or returning after removal, may be apprehended and detained.

IV. If any Foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any Foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the local Government under whose order he shall have removed himself or been removed,—such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

Government may order all the provisions of this Act to be in force in British India, or in any part thereof.

V. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or travelling in British India, or any part thereof, it shall be lawful for the Governor-General of India in Council, by a notification published in the *Gazette of India*, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act, including this and the subsequent Sections, shall have full force and effect in British India,

or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a notification published as aforesaid, cancel or alter any former notification which may still be in force, or may extend the period declared therein: Provided that none of the provisions of this or the subsequent Sections of this Act shall extend to any Foreign Minister duly accredited by his Government; to any Consul or Vice-Consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty.

Proviso.

VI. Every Foreigner on arriving in any part of British India, in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding Section, from any port or place not within British India, or from any port or place within British India, where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town, forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports by the Governor-General of India in Council or by the local Government of such place.

Every Foreigner to report arrival in India in certain cases.

VII. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town or other place. The report shall be recorded by the Officer to whom it is made.

What must be stated in the report.

VIII. The provisions of the last two preceding Sections shall not extend to any person being the Master or Commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners who are Masters of vessels, or employed therein, to report themselves when they cease to be so employed.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

Foreigners who do not report themselves, may be dealt with as Foreigners found travelling without a license.

X. No Foreigner shall travel in, or pass through, any part of British India in which all the provisions of this Act are for the time being in force, without a license.

No Foreigner to travel in India without a license.

XI. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the local Governments, under the signature of a Secretary to the Government of India or to such local Government as the case may be, or by such other Officers as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the local Governments.

License by whom to be granted.

What must be stated in the license.

XII. Every such license shall state the name of the person to whom the license is granted, the nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions and may be revoked.

XIII. The license may be granted subject to such conditions as the Governor-General of India in Council or the local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the local Government of any part of British India in which all the provisions of this Act are for the time being in force, and in which the Foreigner holding the same may be, or by the Officer who granted the license.

Foreigner travelling without or contrary to the conditions of his license, may be apprehended.

XIV. If any Foreigner travel in, or attempt to pass through, any part of British India without such license as aforesaid, or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any Officer exercising any of the powers of a Magistrate, or by any European Commissioned Officer in the service of Her Majesty, or by any member of a Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

Procedure upon apprehension.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District. Whenever any person shall be apprehended by, or taken before, the Magistrate of the District, such Magistrate shall immediately report the case to the local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency Towns, or, pending the orders of such Government, to be detained.

Magistrate to report to Government.

Persons apprehended may be admitted to bail.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

XVII. The local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said local Government may direct; or the said local Government may cause him to be removed from such part of British India, by such route and in such manner as to such local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this Section to any local Government.

XVIII. The Governor-General of India in Council may by order

Government may prohibit any persons not being natural-born subjects, from travelling or passing through any part of India without a license.

prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., chap. 85, Section 81, from travelling in, or passing through, any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section 14 of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section 17 in the same manner as if he were a Foreigner; and the Governor-General of India in Council may order such person to be detained in safe custody, or under the surveillance of the Police, so long as it may be deemed necessary for the peace and security of British India, or any part thereof.

Also the local Governments within their respective jurisdictions.

XIX. The local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., chap. 85, Section 81, from travelling in, or passing through, such Presidency or place, or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section 14 of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section 17 in the same manner as if he were a Foreigner; and the local Government may order such person to be detained in safe custody, or under the surveillance of the Police, so long as it may be deemed necessary for the peace and security of British India, or any part thereof.

Certain Officers may board vessels to see whether Foreigners are on board.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section 6 of this Act, is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge all such questions touching the

Master of vessel to furnish list of passengers, and to give information respecting them.

passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other Officer as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark.

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section 20 of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for false answer or report.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding 2,000 Rupees.

Penalty for the non-compliance of Master of vessel with requisitions of this Act.

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Penalty for obstructing Officers.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District, in the manner prescribed in Section 26 of Act XLVIII. of 1860 *(to amend Act XIII. of* 1856, *for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlements of Prince of Wales' Island, Singapore, and Malacca.)*

Fines imposed under this Act how to be recovered.

XXV. The Governor-General of India in Council, or the local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section 5, and may at any time revoke any such exemption.

Persons may be exempted from the operation of this Act.

ACT No. VI. OF 1864.

General.

1 Offenders liable to whipping in addition to the punishments described in Section 53 of the Penal Code.

2. Whipping may be substituted for other punishments under Sections 379, 380, 381, 382, 388, 389, 411, 412, 443, 444, 445, and 446, of the Penal Code

3 On second and subsequent convictions of any such offence, the offender may be punished with whipping in lieu of, or in addition to, any other punishment

4 Whipping may be inflicted in addition to any other punishment in the case of second and subsequent convictions under Sections 193, 194, 195, 211, 354, 375, 377, 390, 391, 393, 394, 413, 443, 444, 445, 446, 463, 466, 467, 468, and 469 of the Penal Code

5 Juvenile offenders may be punished with whipping in lieu of any other punishment for any offence not punishable with death

6 Persons committing any of the offences specified in Section 4 in any Frontier District or wild tract of country in which this Section shall be declared by the local Government to be in force, may be punished with whipping in lieu of any other punishment

7 Females and persons sentenced to death, or transportation, or penal servitude, or imprisonment for more than five years, not to be punished with whipping

8 No sentence of whipping to be passed by an Officer inferior to a Subordinate Magistrate of the 1st Class, unless such Officer is expressly empowered to do so.

9. A sentence of whipping, awarded in addition to imprisonment by a Court whose sentence is open to revision, not to be inflicted until fifteen days from date of sentence, or, if an appeal be made, until confirmation of sentence.

10. Whipping to be inflicted on juveniles in the way of school discipline, and on adults as the local Government shall direct—the maximum not to exceed 150 lashes if a cat-o'-nine tails be employed, and 30 lashes if the rattan be employed. The punishment to be inflicted in the presence of a Justice of the Peace or Magistrate, and, unless otherwise ordered by the Court passing sentence, in that of a Medical Officer.

11. Sentence not to be executed unless a Medical Officer certifies, or the Officer present thinks, the offender to be in a fit state of health; execution of remainder to be stayed if necessary. No sentence to be executed by instalments.

12. If sentence of whipping be not carried into execution, offender to be kept in custody until Court revise the sentence.

An Act to authorize the punishment of whipping in certain cases.

Preamble.

Whereas it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:

Whipping added to the punishments described in Section 53 of the Penal Code.

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

1. Theft, as defined in Section 378 of the said Code.

2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

3. Theft by a clerk or servant, as defined in Section 381 of the said Code.

4. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.

5. Extortion by threat, as defined in Section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night (or house-breaking by night), as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

On second conviction of any offence mentioned in the last Section, whipping may be added to the other punishment.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, shall again be convicted of the same offence, may be punished with whipping in lieu of, or in addition to, any other punishment to which he may for such offence be liable under the Indian Penal Code.

Offences punishable, in case of a second conviction, with whipping in addition to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say:—

1. Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

9. Attempting to commit Robbery, as defined in Section 393 of the said Code.

10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

12. Forgery, as defined in Section 463 of the said Code.

13. Forgery of a document, as defined in Section 466 of the said Code.

14. Forgery of a document, as defined in Section 467 of the said Code.

15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

18. Lurking house-trespass by night, or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

Juvenile Offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in Section 4 may be punished with whipping in Frontier Districts and wild tracts.

VI. Whenever any local Government shall by notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such local Government, any person who shall in such District or tract of country, after such notification as aforesaid, commit any of the offences specified in Section 4 of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

Exemption of females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping.

Officers inferior to subordinate Magistrate of the 1st Class not to pass sentence of whipping, unless expressly empowered by Government.

VIII. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the 1st Class, unless he shall have been expressly empowered by the local Government to pass sentences of whipping.

Whipping, if in addition to imprisonment, when to be inflicted.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal, immediately on the receipt of the order of the Court confirming the sentence, if such order shall not be received within the fifteen days.

Mode of inflicting the punishment.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person as the local Government shall direct; and in the case of a juvenile offender, it shall be inflicted in the way of school discipline, with a light rattan. In no case, if the cat-o'-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed, shall the punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

Punishment not to be inflicted if offender not in fit state of health.

Not to be inflicted by instalments.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under the last Section.

XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him, in lieu of whipping, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

ACT No. VII. OF 1864.

Central Provinces.

1. Repealed.
2. A Customs Duty, not exceeding three Rupees per maund, on Salt imported into the Central Provinces, may be levied.
3. Certain provisions of Acts XIV. of 1843, XXXVI. of 1855, and XIX. of 1862, extended.
4. Collectors and other Officers indemnified for acts done prior to passing of this Act.

An Act for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces.

Preamble.

Whereas it is expedient to provide for the levy of a Customs Duty upon Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and to extend to the said Territories certain provisions of Act XIV. of 1843 *(for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal)*, and of Act XXXVI. of 1855 *(to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces)*, and of Act *XIX. of* 1862 *(to extend to the Province of Oude certain provisions of Acts XIV. of* 1843 *and XXXVI. of* 1855, *relating to the manufacture of contraband Salt, and to amend the last named Act)*; It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Customs Duty on Salt imported into Central Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy of a Customs Duty, not exceeding three Rupees per maund, on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

Certain parts of Act XIV. of 1843, *of Act XXXVI. of* 1855, *and of Act XIX. of* 1862, *extended to the Central Provinces.*

III. So much of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Act XIV. of 1843 as relates to the manufacture and importation of alimentary Salt, and to the prevention and punishment of the illicit manufacture and importation of such Salt, and Sections 1, 2, 3, 5, 6, 7, 8, and 9 of Act XXXVI. of 1855, and Section 2 of Act XIX. of 1862, are hereby extended to the Territories administered by the Chief Commissioner of the Central Provinces.

Indemnity to Collectors of Customs and others.

IV. Every Collector of Customs and other Officer in the Territories administered by the Chief Commissioner of the Central Provinces, however such Officer is designated, is hereby indemnified for anything done before the passing of this Act, which might lawfully have been done if this Act had been in force, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of anything so done.

ACT No. VIII. OF 1864.*

French Bank.

1. Interpretation.
2. All suits and proceedings by, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in India, as the nominal plaintiff or defendant, and shall not abate on death or removal of such Manager
3. In Criminal proceedings, property, whether vested in the Comptoir D'Escompte or in Trustees, may be described as the property of the Comptoir or of the Chief Manager.

* Act IX., 1867, is to be read with, and taken as part of, this Act.

4. A shareholder to have the same rights of action upon contract and for any debt, damage, or demand, as any stranger.
5. The Comptoir to have the same rights of action against a shareholder as against any stranger.
6. Chief Manager to enrol in the High Court of Judicature a memorial in Form A, containing the particulars of the establishment of the Bank, its capital, and rules of management.
7. No memorial to be enroled unless the authority of the Manager be duly authenticated.
8. On appointment of a new Manager, or any change in the facts stated in any memorial, a new memorial in Form B to be enrolled within twelve months.
9. Person making a false declaration in any memorial, to be deemed guilty of an offence under Section 199 of the Penal Code.
10. Comptoir not to sue under this Act till after enrolment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.
11. Copy of memorial certified by the Registrar of the High Court, to be proof of the contents thereof.
12. Execution on decree may be on property in India, and if full amount be not recovered, proceedings therefor may be taken in France under the Convention of 30th April, 1862.
13. No person to bring more than one suit in respect of the same demand, and proceedings in one suit may be pleaded in bar of any other suit for the same demand.

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

Preamble.

Whereas certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris;" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the 18th day of March, 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself; and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the 30th day of April, 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say: "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention, as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable;" and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its

Agencies now or hereafter established are concerned; It is enacted as follows:

"British India."

I. Unless the contrary appears from the context, in construing this Act, the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by Statute 21 and 22 Vict., chap. 106, entitled "an Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

"Person."

The word "person" includes any Company or Association or body of persons, whether incorporated or not.

All suits and proceedings by, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager as the nominal plaintiff or defendant; and shall not abate, &c., on death or removal of such Manager.

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte; and the death, removal, resignation, or any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be

continued, prosecuted, and carried on or defended in the name of any other the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property, whether vested in the Comptoir D'Escompte or in Trustees, may be described as the property of the Comptoir or of its Chief Manager.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects, and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte or in some person or persons in trust for the Comptoir D'Escompte, to be the money, notes, bills, effects, and securities or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence: and in all other proceedings in which before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice, such criminal proceedings.

Actions against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger and not a shareholder or partner of or in the said Comptoir D'Escompte.

Suit by Comptoir on contract not to be defeated because defendant is a partner.

V. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in anywise affected or defeated by or by

reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Chief Manager to cause memorial to be enrolled containing certain particulars.

VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule A to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by, or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of Capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last-mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial, shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial, to be enrolled.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule B to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

False declaration an offence under the Penal Code.

IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

Comptoir not to sue under this Act till after enrolment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Examined copy to be a proof of contents of memorial.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Judgment or order against Chief Manager how to be executed.

XII. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment, and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the 30th of April, 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit is respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in

British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

SCHEDULE A.

Referred to in Section 6 of this Act.

Memorial made the ——— day of ——————— by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII. of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section 6 of the said Act.

Situation of Office of Chief Manager ... ...
Situation of other Offices and places in British India ... ...
Entire Nominal Capital of the Company ... ...
Paid-up Capital ... ...
Number of Shares ... ...
Amount of each Share... ... ...
Amount of Capital set aside for operations in British India ... ...
Mode in which the same is invested ... ...
Name in which the same is invested ... ...

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared, &c., before me, a Judge of the High Court of Judicature at ———

SCHEDULE B.

Referred to in Section 8 of this Act.

Memorial made the ——— day of ——— by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII. of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c.," *(as in foregoing)*, setting forth particulars of change or changes as prescribed by Section 8 of the said Act.

Name and description of new Chief Manager ... ...
or
New situation of Office of Chief Manager ... ...
or
Other change... ... ...

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D.

Declared before me, &c., &c., *(as before)*.

Act No. X. of 1864.*

An Act to extend Act XXI. of 1856, *to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.*

Preamble.

Whereas it is expedient to give the Governor-General of India in Council power to extend the provisions of Act XXI. of 1856 *(to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)* to any of the Provinces under the immediate administration of the Governor-General of India in Council in which the said Act is not now in force; It is enacted as follows:

Governor-General of India in Council may extend Act XXI. of 1856 to certain Non-Regulation Provinces.

I. It shall be lawful for the Governor-General of India in Council, by order published in the *Gazette of India*, to extend the provisions of the said Act XXI. of 1856 to any province or place under the immediate administration of the Governor-General of India in Council.

Governor-General in Council to declare the authorities by whom Act XXI. of 1856 is to be administered.

II. Whenever the Governor-General of India in Council shall extend the said Act XXI. of 1856 to any province or place under the powers hereinbefore in that behalf contained, the Governor-General in Council shall, by notification in the *Gazette of India*, declare the authorities by whom the said Act XXI. of 1856 shall be administered in such province or place.

Act No. XII. of 1864.

Rangoon.

An Act to give further effect to the provisions of Act IV. of 1863 *(to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.)*

Preamble.

Whereas it is necessary to provide for the more effectual carrying out of the provisions of Act IV. of 1863 *(to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah)*; It is enacted as follows:

Governor-General in Council may pass rules to give effect to Act IV. of 1863.

I. It shall be lawful for the Governor-General of India in Council to make and issue rules to give effect to the said Act IV. of 1863, and regulate all matters relating to the import and export of goods or otherwise arising under that Act; and from time to time to add to, alter, or revoke such rules or any of them: Provided that no rule so made shall be inconsistent with any provision of the said Act IV. of 1863, and that the penalties prescribed in such rules for their infringement shall not exceed, and shall, so far as circumstances will admit, be the same as, or similar to, the penalties prescribed in the like cases by Act VI. of 1863 *(to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.)* All rules made under this Section shall be published in the *Gazette of India.*

Proviso.

II. *Repealed by the Repealing Act XIV.*, 1870.

* See Act XXVIII. of 1864.

ACT No. XIII. OF 1864.

General.

1 Repealed
2 Interpretation
3 Except under this Act, no contract to be made with any Native for labour to be performed out of India. Contracts for labour in any Foreign Settlement or Native State in India, or in Ceylon, and contracts with native seamen and menial servants, excepted
4 Contracts may be made with natives to emigrate to Mauritius, Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St Vincent, Natal, St Kitts, and Seychelles, and to the Danish Colony of St. Croix
5. The Governor-General in Council may declare emigration lawful to places other than the above
6 Subject to the provisions of this Act, contracts may be made for emigration to the places above-named
7 Emigration only lawful from the Ports of Calcutta, Madras, and Bombay
8 Table of the probable lengths of voyage from Calcutta, Madras, and Bombay, to the places enumerated in Section 4
9 Notification legalizing emigration to any new place, to give the probable length of voyage thither from each Port
10 Subject to the approval of the local Government the Government of every place to which emigration is lawful may appoint a person to be Emigration Agent in each Port
11 Emigration Agents for the places enumerated in Section 4 to be deemed to have been nominated under this Act
12 Emigration Agents to be remunerated by fixed salaries
13 The local Government to appoint a Protector of Emigrants at each Port, and, with sanction, to assign to such person a suitable salary and establishment
14 No Protector of Emigrants to hold any other Office without permission of Government
15. Protectors nominated before this Act comes into operation, to be deemed to have been nominated under the Act
16 In addition to special duties under the Act, Protector to protect and advise all emigrants, to inspect vessels with return emigrants, to enquire into the treatment received by them, and report thereon to the Government
17 Local Government to appoint a Medical Inspector at each Port, and, with sanction, to assign to him a suitable salary.
18 Emigration Agents to establish suitable depôts
19. Protector to grant a license for each depôt The license to be in force for a year, but may be cancelled if depôt becomes unsuitable, A fee of ten Rupees to be paid
20 The Protector and Medical Inspector to inspect the emigrants at each depôt at least once in every week.
21 Medical Inspector to report to Protector if any depôt be not suitable, or if the emigrants are neglected or oppressed
22 Protectors and Medical Inspectors to be held to be public servants under the Penal Code
23. Emigration Agents and persons in charge of depôt or licensed vessels to give the Protector and Medical Inspector every facility for inspections and surveys
24 Recruiter to be licensed to obtain labourers only for a particular place, and no such license to be granted except on the application of the Emigration Agent of such place
26 License not to be in force for more than one year, but may be cancelled within that time for misconduct
27. License to be in Form B, and a fee of ten Rupees to be paid for it
28. Recruiter to wear a badge with inscription in English and in the vernacular language of the place in which he is licensed to engage labourers
29 Before engaging labourers, Recruiter to have his license countersigned by the Magistrate of the place
30 Recruiter not to remove emigrant from District till after examination and registration by Magistrate, a copy of the particulars of registration to be furnished to emigrant
32 Copy to be sent to the Protector and the Emigration Agent of the place for which the emigrant is engaged
33 Recruiter not to remove emigrant engaged in a Presidency Town till after examination and registration by the Protector A copy of registration to be furnished to emigrant
34 A fee of one Rupee to be paid by the Recruiter for each registration under the preceding Section, but if emigrant desert before reaching the depôt the fee may be refunded
35 A copy of such registration to be forwarded to the Emigration Agent of the place for which the emigrant is engaged
36 (1) Emigrant to be conveyed with all convenient despatch to the proper depôt
(2) Emigrants to be accompanied by the Recruiter or any other person approved by the Magistrate.
(3) Recruiter to provide emigrants with suitable lodging and food during the journey
37 The arrival of each emigrant at the depôt to be immediately reported to the Emigration Agent and Protector
38 A copy of the registration of each emigrant to be exhibited to the Medical Inspector, who is to certify as to the fitness of the emigrant to emigrate
39 If Medical Inspector certify unfitness, or if there be any irregularity in the recruitment, Protector may order the Emigration Agent to pay a reasonable sum for the return of the labourer
40 On failure for 24 hours to comply with such order, Protector may pay such sum and recover the same, with interest, from the Agent. Emigrant unable at once to return, may continue in the depôt until the Protector shall otherwise order
41. Copy of registration to be countersigned by the Agent and the Protector, but if Agent refuse to be bound by the contract, Protector may order him to pay a reasonable sum for the return of the emigrant, and may also sue for damages
42 After examination and certificate of fitness from Medical Inspector, Emigration Agent to deliver a pass stating particulars
43. Protector to attend personally at examination, and, if satisfied, to countersign the pass granted by the Agent
44 No emigrant to be compelled to embark against his will, but he may, on conviction before a Presidency Magistrate, be summarily punished under Section 492 of the Penal Code
45 Emigrants may leave at any time of the year for any place East of the Cape of Good Hope, but for any place West of the Cape they may leave only between the 31st July and 16th March, unless they embark in Steam Vessels, when they may leave at any time of the year
46 (1) No vessel to receive Emigrants on board without a license, which the local Government may grant or withhold
(2) Applications for license to be made through the Protectors
(3) Application to state number to be carried, and the tonnage and other particulars of the vessel.
(4) Protector to cause a careful survey of the vessel to be made.

(5) Protector to report on survey, and, if the vessel be suitable, to grant a certificate to the Master.

(6) Master to execute in duplicate a bond for 10,000 Rupees to conform to the conditions of the Act. Protector to forward one copy to the Government of the place of destination, and one copy to the local Government

47 (1) No certificate to be granted unless a space between decks, or in cabins be devoted to the exclusive use of the emigrants, such cabins and space having a height of not less than 5½ feet.

(2) Every emigrant to have on deck a space of 10 superficial and 72 cubic feet.

(3) A hospital to be fitted up in every ship

(4) Women and children to occupy a separate compartment

(5) Emigrants above 10 years to count as adults, and two children under 10 as one adult

48 (1) Good and sufficient provisions and a proper supply of water in tanks to be laden on every vessel carrying emigrants

(2) A proper Surgeon, medicines, and other stores to be also carried

(3) Vessels destined to call at any Port on the voyage, may take water sufficient only for the voyage to such place

(4) A reduction of one-third in the quantity of water may be allowed where vessels are supplied with Normandy's apparatus

(5) Protector and Medical Inspector to see personally that the provisions of this Section are complied with

49 Before a vessel clears out for any place westward of the Cape, Protector to see that every emigrant is supplied with an extra double blanket

50 Before vessel clears out from Port, Master to obtain from the Protector and Agent certificates of having complied with the Act and with the Rules.

51 If any emigrant be too ill to undertake the voyage, Protector may refuse to permit his embarkation If emigrant have lost his copy of the registration Protector to supply him with a duplicate

52 Protector to explain to emigrants those provisions of the Act which more immediately affect them.

53 (1) Emigration Agent to furnish Master of vessel with five copies of list of emigrants

(2) On embarkation, emigrants to deliver their Passes to the Master, who shall compare the description therein with the emigrants and the lists, and if they correspond shall sign the lists

(3) Protector to be present at embarkation, and himself to compare the lists with the passes and emigrants

(4) Protector to countersign two copies of the list, and return one to the Master of the vessel

(5) Emigrant without a Pass or not mentioned in the list, not to be permitted to remain on board.

(6) Passes to be returned to emigrant prior to disembarkation at place of destination

54. Two other copies of the list to be signed by the Emigration Agent, of which one is to be returned to the Master after the embarkation of the emigrants Master to deliver such copy to the proper Officer at the place of destination.

58 Protector to send to the proper Officer at the place of destination, by every vessel carrying emigrants, a list of the emigrants in such vessel

59. The Master of a vessel carrying emigrants from Calcutta, to proceed to Garden Reach within 24 hours of embarkation of emigrants

60 Such vessel to proceed to sea in tow of a Steamer

61 Two copies of this Act and of any Rules made by Government and two copies of a translation thereof to be kept on board, one of which to be produced to any emigrant or passenger, on request, at all reasonable times

62 Emigrants for Seychelles may, in case of sickness breaking out be taken to the Quarantine Station of the Mauritius, and while there may contract for service in the Island

63 Governor-General in Council may frame Rules, not inconsistent with this Act, for regulating all matters connected with emigration, and generally for the security, well-being, and protection of emigrants.

64 And may by notification prohibit emigration to any place, if proper measures be not taken there for the protection of the emigrants or for their safe return

65 Emigration to such place to be suspended from the day specified in such notification

66 During such suspension, the provisions of this Act prohibiting emigration and the making of contracts with natives for labor out of India, to be in force so far as relates to such place

67 Emigration to any such place may again be allowed, on proper measures being taken for the protection of emigrants at such place, and for their due return to India

68 Fees received by Magistrates, Protectors, or other Officers, to be accounted for to Government,

69 Persons contracting with natives for labor to be performed at unauthorized places, to be deemed to have committed an offence under Section 363 of the Penal Code, and persons assisting natives to emigrate to any such place, to be deemed to have abetted the commission of such offence

70 Unlicensed person acting as a Recruiter, or entering into a contract for labor out of India, liable to a fine of 500 Rupees

71 Recruiter removing emigrant from place of engagement without registry by the Magistrate or Protector, or by violence or fraud inducing a laborer to enter into a contract, or to proceed to any place without contract, or failing to supply any emigrant with proper food, or ill treating him, or conveying him to any other place than the proper depot,—liable to a fine of 500 Rupees,

72 Recruiter forwarding emigrant, or inducing or permitting him to leave the place of engagement, before registration, liable to a fine of 500 Rupees

73 Person ordering the Police to assist in procuring labourers, or falsely representing that labourers are required by Government, liable to a fine of 500 Rupees

74 Master of vessel receiving any emigrant on board for conveyance to any place contrary to this Act, liable to simple or rigorous imprisonment for one year, and a fine of 1,000 Rupees for every emigrant so received, and the vessel also to be liable to be forfeited

75 Master taking any emigrant without full compliance with Sections 48 and 50, liable to a fine of 200 Rupees for each

76 Master taking on board emigrants not duly entered in the lists, liable to a fine of 200 Rupees for each.

77 Master fraudulently doing any act rendering certificate inapplicable to the altered state of the vessel, liable to a fine of 5,000 Rupees besides forfeiture of bond

78 Master proceeding to Sea without steamer, or not leaving within the time prescribed, liable to a fine of 1,000 Rupees

79 Powers of Customs Officers for the prevention of smuggling, may be exercised by such Officers and Pilots for the prevention of offences under this Act

81. Prosecutions to be instituted at the instance of an Agent, or Protector Mode of levying fines.

82 Local Government may authorize any person invested with the powers of a Magistrate to perform the duties of the "Magistrate of the District" under this Act.

83 Section 8, Act XLVI. of 1860, prescribing a fee not exceeding one Rupee per emigrant, repealed.

84 Repealed

85 Nothing in this Act or in any Rule to apply to vessel in the service of the Admiralty or to any of Her Majesty's vessels.

An Act to consolidate and amend the laws relating to the Emigration of Native Labourers.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the Emigration of Native Labourers: It is enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"Emigrate."

The word "Emigrate" shall denote the departure of any Native of India out of British India for the purpose of labouring for hire in some other place; and the word

"Emigrant."

"Emigrant" shall denote any Native of India under engagement to emigrate.

"British India."

The words "British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India," except the Settlements of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

The words "Local Government" shall denote the person authorized by law to administer Executive Government in any part of British India.

"Section."

The word "Section" shall denote a section of this Act.

"Vessel."

The word "Vessel" shall include anything made for the conveyance by water of human beings or property.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Contracts for labour out of India unlawful except under this Act.

III. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating: Provided that nothing in this Act shall apply to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India, or to emigration to any such Settlement or State; or shall apply to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or shall apply to any contract with, or the emigration of, any Native seaman or other person who of his own free will shall contract to navigate or serve on board of any vessel, or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant.

Places for emigration to which contracts

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St.

may be made with Natives.

Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony of St. Croix; and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

Governor-General may declare emigration lawful to places other than those mentioned in the last Section.

V. The Governor-General of India in Council may from time to time, by notification published in the *Gazette of India*, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in the last preceding Section: Provided that every such notification shall contain also a declaration, that the Governor-General of India in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor-General of India in Council thinks sufficient for the protection of Natives of India emigrating to such place.

Proviso.

Contracts may be made for emigration to places to which emigration is authorized by Governor-General.

VI. From the date of any such notification by the Governor-General of India in Council, contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place; but all contracts and emigration under any such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

VII. Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay.

Probable length of voyages.

VIII. The probable length of the voyages to the places enumerated in Section 4, from Calcutta, Madras, or Bombay, respectively, shall, for the purposes of this Act, be deemed to be as follows:—

From Calcutta ..	To Mauritius and Seychelles ...	Between the months of April and October inclusive, 10 weeks; and between the months of November and March inclusive, 8 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, and St. Croix	20 weeks.
	To Natal	12 weeks.
From Madras ..	To Mauritius and Seychelles ...	Between the months of April and October inclusive, 7 weeks; and between the months of November and March inclusive, 5 weeks.*
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, and St. Croix	19 weeks.
	To Natal	10 weeks.
From Bombay ..	To Mauritius and Seychelles ...	Between the months of April and September inclusive, 5 weeks; and between the months of October and March inclusive, 6 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, and St. Croix	19 weeks.
	To Natal	10 weeks.

* Six weeks. See Act VI., 1869, Section 1.

Notification legalizing emigration to any new place shall give the probable length of the voyage.

IX. In every notification issued under Section 5, there shall be stated the probable length of the voyages from Calcutta, Madras, and Bombay, respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Appointment of Emigration Agent.

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay. respectively, but such nomination shall be subject to the approval of the local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section 4, shall be deemed to have been nominated under this Act.

Remuneration of Agents.

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Appointment of Protector of Emigrants.

XIII. It shall be lawful for the local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and, with the sanction of the Governor-General of India in Council, to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the local Government to which he is subordinate.

No Protector to hold other Office without permission.

XIV. No Protector of Emigrants nominated under this Act shall, except with the permission of the local Government, hold any other office under Government, or follow any other profession or occupation.

Existing Protectors to be deemed Protectors under this Act.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the local Government, shall be deemed to have been nominated under this Act.

General duties of the Protector of Emigrants.

As to inspecting vessels with return Emigrants.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with; he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

Appointment of Medical Officer.

XVII. At each of the three ports aforesaid, it shall be lawful for the local Government to nominate a competent person to be Medical Inspector of Emigrants, and, with the sanction of the Governor-General of India in Council, to assign

to the Medical Inspector so nominated such salary as shall be deemed proper.

Depôts to be established in Calcutta, Madras, and Bombay, for each Emigration Agency.

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as labourers for such place; and by the Emigration Agent nominated by the French Government under Act XLVI. of 1860 *(to authorize and regulate the emigration of Native Labourers to the French Colonies)*, and Act VII. of 1862 *(to amend Act XLVI. of* 1860*)*, for the persons who shall be engaged as labourers for the French Colonies.

Licensing of depôts.

XIX. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy, or in any respect has become unsuitable for the purpose for which the depôt was established. For every license granted under this Section there shall be paid to the Protector a fee of *ten Rupees.**

Inspection by Protector and by Medical Inspector.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depôts, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Report to be made by Medical Inspector.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

Protectors and Medical Inspectors to be held Public Servants.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

And to have every facility for inspections, &c.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of, or employed in, any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

XXIV. *Repealed, and Section* 24 *of Act VI.*, 1869, *substituted.*

The Recruiter's License.

XXV. Every Recruiter shall be licensed to obtain labourers for some particular place to which Emigration shall be lawful under this Act, and no license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

* See Section 9, Act VI., 1869.

Duration of the license, and its cancelment in case of misconduct.

XXVI. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Form of license, and fee to be paid.

XXVII. Every license shall be in the form set forth in the Schedule (B) to this Act annexed. For every license there shall be paid to the Protector a fee of *ten Rupees.**

Recruiter to wear badge.

XXVIII. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District, or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius (or other place as the case may be)*].

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXIX. No Recruiter shall engage, or attempt to engage, labourers in any District or in the Towns of Calcutta, Madras, or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Natives engaging to emigrate not to leave their District without appearing before a Magistrate.

XXX. Every Native of India, who shall in any place other than the Towns of Calcutta, Madras, or Bombay enter into any engagement with a Recruiter to emigrate, shall, prior to leaving the District within which the engagement was entered into, appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service (if any) agreed upon between the Emigrant and the Recruiter. If the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

Examination and registration.

XXXI. *Repealed, and Section* 31 *of Act VI.*, 1869, *substituted.*

Copy of registration to be sent to Emigra-

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named

* See Section 9, Act VI., 1869.

tion Agent and Protector.

therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of Emigrants recruited in Presidency Towns.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras, or Bombay enter into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any Emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

Protector's fee for registration.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of *one Rupee.** On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration by Protector, to be sent to Agent.

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

Conveyance of Emigrant to depôt.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Emigrants shall be accompanied to depôt by Recruiter, or some person approved by the Magistrate.

2. The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give

* See Section 9, Act VI., 1869.

to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

Arrival at depôt to be reported to Emigration Agent, and to Protector.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported, by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Copy of registration to be shown to the Medical Inspector.

And Emigrants to be inspected by him.

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall, as soon as conveniently may be after the arrival of the Emigrant, be exhibited to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place of registration.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the labourer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the labourer to such place.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith: Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged, and attended to there, by, and at the expense of, the Emigration Agent, until such time as the Protector shall otherwise order.

XLI. The Emigration Agent, in the presence of the Protector of

Duty of Emigration Agent.

Emigrants, and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section 30 or Section 33. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under Section 30, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under Section 33, shall be countersigned by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant. If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him (the Protector of Emigrants) such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to, or on behalf of, the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

Provision for the case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and age of the Emigrant, and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections 41 and 42, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

Protector of Emigrants to be present personally at examination and passing of Emigrants.

And to countersign Pass.

Emigrants refusing to embark, not to be compelled to embark.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark, or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere; but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such labourer shall, on conviction, be punished in the manner provided in Section 492 of the Indian Penal Code for the punishment of offences under that Section.

Time of sailing for places East of Cape of Good Hope.

For other places.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act, at all times of the year. For any such place West of the Cape of Good Hôpe, Emigrants may leave *only between the* 31*st of July and the* 16*th of March*,* unless they embark in vessels using steam power, in which case they may leave at any time of the year.

Emigrant not to be received on board unlicensed ship.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the local Government, and the granting or withholding any such license shall be entirely discretionary with the local Government.

Application for license.

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing, through the Protector of Emigrants, to the local Government for such license.

Contents of the license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

Survey of vessel.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Report after survey, and certificate to Master.

5. The Protector of Emigrants shall make a full report on the survey to the local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Bond to be executed by Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of

* But see Section 4, Act VI., 1869.

Emigrants, and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the local Government shall prescribe, binding himself and his owners, in a penal sum of 10,000 Rupees, to conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which the Emigrants are to be carried, and the other copy of it to the local Government.

Accommodation and space required on board Emigrant ships.

* XLVII. 1. No certificate under the last preceding Section shall be granted, unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

Provisions, fuel, and water to be shipped and taken.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General of India in Council under Section 63, good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers, and crew, and of the cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protector of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the stave of the water-casks shall not be made of fir, pine, or soft wood.

Surgeon, medicines, and stores to be carried.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by any Rules made under Section 63.

Supply of water for vessel destined to call at intermediate port.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the pro-

* See Section 5, Act VI., 1869.

bable voyage to such port or place of calling, shall be deemed to be a compliance with the Section. The probable length of the voyage to such port or place of calling shall be determined from time to time by the Protector of Emigrants, subject to the approval of the local Government.

Reduction of supply on vessel fitted with distilling apparatus.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

Protector and Inspector to ensure compliance with above provisions.

5. It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

Protector of Emigrants to see that Emigrants are supplied with extra clothing at a certain season.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the 1st day of March and the 15th day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

Master of vessel to obtain certificates from both Protector and Agent.

L. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras, or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—That such Protector and Emigration Agent have, in respect of the Emigrants proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor-General of India in Council shall from time to time frame under Section 63.

Emigrant unfit for voyage not to be allowed to embark.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease. If the Protector of Emigrants shall be of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit the embarkation of such Emigrant. The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that such Emigrant has in his possession the copy of the registration provided under Section 30 or Section 33. If it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant

with a copy of such registration, to be made from the copy received by the Protector from the Magistrate under Section 32, or from the Register kept by himself under Section 33, and shall thereupon allow such Emigrant to embark.

Provisions of Act to be explained to all Emigrants.

LII. The provisions of this Act, so far as they are likely more immediately to affect them, shall be explained in a general manner by the Protector of Emigrants to all Emigrants prior to their embarkation.

Procedure on embarkation of Emigrants.

LIII. 1. When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages, and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Emigrant to give his Pass to Master.

2. On embarkation, every Emigrant shall deliver to the Master of the vessel the Pass granted to him under Section 42, and it shall not be lawful for the Master to receive any Emigrant on board unless he delivers up such Pass. The Master shall compare the Emigrants who embark and the Passes delivered by them, with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the Passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Protector to be personally present.

3. It shall be the duty of the Protector of Emigrants to be personally present at the embarkation of all Emigrants, and to see that the Master duly compares the list with the Passes and Emigrants, and he shall himself also compare the list with the Passes and Emigrants.

One copy of list of Emigrants given to Protector, to be signed and returned to Master.

4. When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the Office of the Protector of Emigrants.

Emigrant not having Pass not to be allowed to remain on board.

5. The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a Pass, or is not mentioned in the list aforesaid.

Pass to be returned to Emigrant on arrival at place of destination.

6. Every Pass delivered up to the Master of a vessel under this Section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Copy of list of Emigrants to be signed by Agent, and returned to Master.

LIV. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants, and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out, two others of the five copies of the list of Emigrants mentioned in the last preceding Section, duly signed by the Master. The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination, and previous to the dis-

And by him to be delivered at place of destination.

embarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper Officer, at such place.

LV.—LVII. *Repealed by Section* 10, *Act VI.*, 1869.

Protector shall send to Government of place of destination list of Emigrants on board each vessel.

LVIII. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the Passes of the Emigrants, and from the list signed by the Master as aforesaid.

Vessels sailing from Calcutta to depart within 24 hours of embarking Emigrants.

LIX. The Master of every vessel carrying Emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to be towed to Sea by Steamer.

LX. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to Sea under tow of a competent Steamer.

Copies of Act and Rules to be kept on board every vessel.

LXI. Two copies of this Act and of all Rules made by the Governor-General of India in Council under Section 63, and two copies of a translation of this Act and of Rules, in such languages as the local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage, and one of such copies or translations shall, upon request made at all reasonable times to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

In case of sickness, Emigrants for Seychelles may be taken to Quarantine Station of Mauritius. *

LXII. In case of sickness breaking out on board of any vessel conveying Emigrants to the British Dependency of Seychelles, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius, or may proceed to the said Dependency of Seychelles; and if they shall elect to contract for service in the Island of Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to the said Island under the provisions of this Act.

Power of the Governor-General in Council to make rules.

* LXIII. It shall be lawful for the Governor-General of India in Council from time to time to make Rules, and to repeal, alter and amend the same, not inconsistent with the provisions of this Act,—

1. To regulate the proportion of women to be taken with Emigrants, and the age below or above which children shall not be taken;

2. To prescribe the description, quantity, and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

3. To provide for the Medical care of Emigrants during their residence at the depôts and on their voyages;

* See Section 7, Act VI., 1869.

4. To prescribe the nature, quality, and quantity of medical drugs and other stores to be carried on board such vessels;

5. To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

6. To provide for a Journal being kept by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

7. And generally to provide for the security, well-being, and protection of Emigrants.

All such Rules shall be published in the *Gazette of India*, and shall have the same force and effect as if they were contained in this Act.

Government may prohibit the emigration of Native labourers to any place to which emigration is allowed.

LXIV. Whenever the Governor-General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor-General of India in Council, by notification published in the *Gazette of India*, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended from day named in notification.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification; but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During such suspension, laws against emigration shall be in force as to the place specified in the notification.

LXVI. During the time of such suspension, any provisions of this or of any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British Territories in India, shall take effect and be in force, so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LXVII. Whenever the Governor-General of India in Council shall be satisfied that, in the place specified in any notification under Section 64, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat, and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about the time at which they are entitled to such return passages, it shall be lawful for the said Governor-General of India in Council to notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day so specified, be revived and have the same force and effect as if such Emigration had not been suspended,

except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

Fees are to be accounted for to Government.

LXVIII. All fees received by any Magistrate, Protector of Emigrants, or other Officer under this Act, shall be accounted for to Government in such manner as the Governor-General of India in Council may direct.

Penalty for making an unlawful contract of labour.

LXIX. Whoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts XLVI. of 1860 and VII. of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code; and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for recruiting without license.

LXX. Whoever, not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of labourers, or shall, contrary to the provisions of this Act, enter into any contract with a Native of India for labour to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI. if 1860 and VII. of 1862), shall be liable to a fine not exceeding 500 Rupees.

Penalty on Recruiter failing to take the labourers he has engaged before Magistrate of the District or the Protector of Emigrants.

LXXI. Whoever, being a duly licensed Recruiter, shall remove any Emigrant whom he may engage in any District or place, other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recruiter before the Magistrate of the District in order that such person might be examined and registered; and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay, from such Town, or to an Emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that such person might be examined and registered; and whoever shall by means of intoxication, violence, fraud, or false pretences, induce any Native of India to enter into a contract for labour to be performed by him in any place to which emigration shall be lawful under this Act, or to proceed to any such place without having entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged, and who shall be registered, with suitable food, or shall otherwise ill-treat such Emigrant on his journey to the depôt; and whoever shall forward, send, or convey any such Emigrant otherwise than is provided in Section 36., or to any house or place in or near the Town of Calcutta, Madras, or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labour—shall be liable to a fine not exceeding 500 Rupees.

For inducing labourer to contract by fraud, &c.

For not supplying proper food, &c.

For not taking the labourer to the depôt for the place at which he has contracted to labour.

Penalty for forwarding labourers, or allowing them to go, without being duly registered.

LXXII. Whoever, being a duly licensed Recruiter, shall forward or send any Emigrant from the District or Town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections 30 and 33; and whoever, being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding 500 Rupees.

Penalty for false representation of authority from Government.

LXXIII. Whoever, without lawful authority, shall issue any written perwannah or order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or shall falsely represent that such labourers are required by the Government, or are to be engaged on behalf of Government, shall be liable to a fine not exceeding 500 Rupees.

Penalty for receiving Emigrants in an unlicensed vessel.

LXXIV. If the Master of any vessel which shall not have been licensed as provided in Section 46, shall knowingly receive any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding 1,000 Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

Penalty for clearing ship without complying with rules.

LXXV. If the Master of any vessel shall, at the port of Calcutta, the port of Madras, or the port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act, and take on board any Emigrant without having fully complied with every particular required in Sections 48 and 50, he shall be liable to a fine not exceeding 200 Rupees for every Emigrant so taken on board.

Penalty for taking on board, after clearance, Emigrants not entered in list.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Sections 53 and 54, and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding 200 Rupees for every Emigrant so taken on board his vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall, after having obtained a certificate in accordance with the provisions of Section 46, fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding 5,000 Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for proceeding to Sea without steam.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section 46, and sailing with Emigrants on board, shall, without reasonable excuse, cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section 59, the Master of such vessel shall be liable to a fine not exceeding 1,000 Rupees.

Customs Officers and Pilots may search and detain for purposes of this Act.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of, or licensed by, Government are hereby vested with the same powers, and charged with the same duties, as Officers of Customs in this behalf.

LXXX. *Repealed by Act VI.*, 1867, *Section* 10.

Prosecution how and where to be instituted.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the local Government, before a Magistrate of Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within, or for offences committed beyond, the limits of the Towns of Calcutta, Madras, and Bombay. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distress is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labour, for any term not exceeding two months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four months where the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the

Levy of fines.

order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

Any person specially authorized may exercise the powers of the Magistrate under this Act.

LXXXII. It shall be lawful for the local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to, and conferred on, the Magistrate of the District: and every person so authorized shall in all respects, for the purposes of this Act, be deemed to be included in the words "the Magistrate of the District."

This Act, except certain Sections, not to apply to emigration to the French Colonies.

LXXXIII. So much of Section 8 of Act XLVI. of 1860 as enacts that a fee not exceeding one Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall be held to repeal the said Act XLVI. of 1860, or Act VII. of 1862; but Section 19 to Section 41, both included, being provisions for regulating the recruitment of native labourers, which will have effect on the recruitment of labourers for British Colonies, shall, as provided in Section 4 of the said Act XLVI. of 1860, apply to emigration under the said Acts XLVI. of 1860 and VII. of 1862.

LXXXIV. *Repealed by the Repealing Act XIV.*, 1870.

Act and Rules made under it not to apply to certain vessels.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor-General of India in Council under Section 63, shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

SCHEDULE A.

Repealed by the Repealing Act XIV., 1870.

SCHEDULE B.

Office of the Protector of Emigrants at the Port of——————————

A. B. is hereby licensed, under Act XIII. of 1864 of the Governor-General of India in Council, to be a Recruiter for engaging persons to proceed to——————— for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the————day of——————————.

(Signed) C. D.,
Protector of Emigrants.

ACT No. XV. OF 1864.

General.

An Act to amend Act VIII. of 1851 *(for enabling Government to levy Tolls on Public Roads and Bridges.)*

Preamble.

Whereas by Act VIII. of 1851 *(for enabling Government to levy Tolls on Public Roads and Bridges)* authority was given for the levy of certain rates of Toll, not exceeding the rates mentioned in the Schedule annexed to that Act; and

whereas it is expedient to make certain alterations in respect to the rates in the said Schedule mentioned; It is enacted as follows:

Schedule of Act VIII of 1851 repealed. Another substituted.

I. In any place to which this Act shall be extended by the local Government, the Schedule to the said Act VIII. of 1851 shall be of no effect, except as to any proceedings pending at the time at which this Act shall be so extended, and except as to any rate of Toll levied theretofore: and all the provisions of the said Act, applicable or referring to the rates of Toll mentioned in the said Schedule, shall be applicable and refer to the rates of Toll mentioned in the Schedule to this Act annexed, which shall be read with, and taken as part of, the said Act VIII. of 1851.

Collectors may compound for Tolls leviable under Act VIII. of 1851 or this Act.

II. Any person entrusted with the management of the collection of Tolls under Act VIII. of 1851, may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of Toll specified in the Schedule to the said Act VIII. of 1851 or in the Schedule to this Act.

This Act where to have operation.

III. The local Government may extend this Act to any place in which the said Act VIII. of 1851 is in force; and the local Government of any place in which the said Act VIII. of 1851 is not in force may extend the said Act VIII. of 1851 and this Act to such place.

"Local Government."

IV. For the purposes of this Act, the words "local Government" shall denote the person authorized by law to administer Executive Government in any part of the territories vested in Her Majesty by the Statute 21 and 22 Vict., cap. 106, entitled "An Act for the better Government of India."

SCHEDULE.

	R.	A.	P.
On every four-wheeled Carrigge	2	0	0
On every two-wheeled Carriage	1	0	0
On every Ekka	0	4	0
On every hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	1	8	0
Ditto, if not laden	0	8	0
On every cart and hackery drawn by 6 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	12	0
Ditto, if not laden	0	6	0
On every cart or hackery drawn by 4 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery drawn by 2 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	4	0
Ditto, if not laden	0	2	0
Buffaloes or bullocks, per head, if laden	0	1	0
Ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	8	0
Ditto, if not laden	0	4	0
On every horse, if laden or ridden	0	1	6
Ditto, unladen or led	0	0	9
On every tattoo or mule, if laden or ridden	0	0	9

	Rs.	A.	P.
On every tattoo or mule, unladen or led	0	0	6
On every as, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep, or goat, or pig	0	0	1
On every palankeen, dhooly, palna, or tonjon with 8 bearers ...	1	0	0
Ditto ditto with 6 bearers ...	0	12	0
Ditto ditto with 4 bearers ...	0	8	0
Ditto ditto with 2 bearers ...	0	4	0
On every foot passenger	0	0	3

N. B.—Animals drawing any vehicle for which Toll can be demanded are not to be also charged with Toll.

Act No. XVII. of 1864.

General.

1. Interpretation.
2. Repealed.
3. Every Official Trustee appointed under Act XVII. of 1843, save as regards his remuneration, to hold and execute Trusts as if appointed under this Act.
4. One Official Trustee to be appointed in each Presidency.
5. Trustees to be appointed and suspended or removed by the Chief Justices of the High Courts.
6. Administrator General eligible for appointment. Person appointed to give such security as the Chief Justice shall direct.
7. Chief Justice may grant leave of absence to Official Trustee, and appoint a person to act for him.
8. Official Trustee may, with his consent, be appointed Trustee of any settlement of property, except for a religious purpose.
9. In such case Official Trustee to receive the renumeration declared in the Deed.
10. Official Trustee may, on petition to the High Court, be appointed Trustee of any property subject to a trust, if there be no Trustee willing or able to act, or if the Trustees desire it.
11. Official Trustee to receive, under the preceding Section, ½ per cent. upon all monies received and invested, ¾ per cent. on interest or dividends of such money, and 2½ per cent. on rents.
12. Expenses of establishment to be defrayed out of commission.
13. Official Trustee always to be sole Trustee.
14. Capital monies to be invested in Government Securities. If in any case Trust funds be invested otherwise than as provided in the Deed or ordered by the Court, Official Trustee to realise the same, and re-invest them.
15. High Court may, on petition, make any order respecting Trust property in the hands of the Official Trustee.
16. Trust property may be re-transferred to the original Trustee, or to such person as the Court shall direct.
17. Appointment of Official Trustee to be by his name of Office, and on his death, resignation, or removal, property and interests to vest in his successor.
18. Actions by, or against, Official Trustee to be brought by his name of Office, and may be continued by, or against, his successor; but each incumbent to be personally liable for his own costs.
19. Separate accounts to be kept of each Trust, and to be open to the inspection of the Chief Justice and of any person authorized by him.
20. Chief Justice may make rules for safe custody of funds, and for guidance and government of the Official Trustee.
21. Such orders to be published and to be a full indemnity to persons obeying.
22. Official Trustee to prepare annual Schedules showing the accounts of each Trust. Schedules to be filed, but to be open to inspection only on the order of the Chief Justice.
23. Chief Justice to appoint Auditors from time to time.
24. Auditors to examine Schedules and accounts, and report thereon to the Chief Justice.
25. Auditors may examine, on oath, &c., the Official Trustee and any other persons. Person refusing or neglecting to attend and be examined may be punished by the High Court.
26. Expenses of preparing Schedules, &c., and of the examination thereof, to be defrayed rateably out of all the estates.
27. Auditors to report if accounts are not correct or funds not duly invested, or if Trustee has failed to comply with this Act or with any rules and orders.
28. Chief Justice may refer any such report for consideration to the Advocate-General, upon whose petition the High Court may proceed summarily against the defaulter and pass orders.
29. The costs of such reference and proceedings to be defrayed either by the defendants or out of the Trust estates, as the Court shall direct.
30. Orders of High Court to have effect as decrees.
31. Any Trustee or person beneficially interested may apply for an order of Court under this Act.
32. An Executor or Trustee may, by leave of the High Court, pay or transfer to the Official Trustee any gift, legacy, residue, or share to which an infant or lunatic is entitled.

An Act to constitute an Office of Official Trustee.

Preamble. Whereas it is expedient to amend the law relating to Official Trustees, and to constitute an Office of Official Trustee; It is enacted as follows:

Interpretation. I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction, that is to say:—

"High Court."

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay, respectively, in the exercise of their original civil jurisdiction.

"Chief Justice."

The expression "Chief Justice" shall mean the Chief Justice, or Acting Chief Justice for the time being, of any of the said High Courts.

"Person."

The word "person" shall include a corporation.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

II. *Repealed by the Repealing Act XIV.*, 1870.

Official Trustee under Act XVII. of 1843 to act as if appointed under this Act, save as regards remuneration.

III. Every Official Trustee appointed under the said Act XVII. of 1843 shall, save as regards the remuneration to be received by him, hold and execute the Trusts of which he is Trustee in all respects as if he were an Official Trustee appointed under this Act.

Official Trustee to be appointed in each Presidency.

IV. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Official Trustee. The said Official Trustees shall be called the Official Trustee of Bengal, the Official Trustee of Madras, and the Official Trustee of Bombay, respectively.

Appointment, suspension, and removal of Official Trustees.

V. Every Official Trustee appointed under this Act shall be appointed, and may be suspended or removed from his Office, by the authorities hereinafter named, that is to say:—

The Official Trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The Official Trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The Official Trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

Administrator General may be appointed Official Trustee.

VI. The Administrator General or Officiating Administrator General for the time being of any of the said Presidencies shall be eligible for the Office of Official Trustee of that Presidency. Every Official Trustee appointed under this Act shall give security for the due execution of the duties of his Office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

Security to be given by Official Trustee.

Leave of absence of Official Trustee, and appointment of a person to officiate for him.

VII. It shall be lawful for the Chief Justice of the High Court at any of the Presidencies, from time to time, to grant leave of absence to the Official Trustee of that Presidency, but subject always to such and the like rules as may be for the time being in force as to leave of absence of the Officers attached to such High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee, and such person while so officiating shall be subject to the same conditions, and be bound by the same responsibilities, as the Official Trustee, and he

shall be deemed to be the Official Trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his Office in like manner as if he had been appointed Official Trustee.

Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor, &c.

VIII. If any person shall be about to grant, assign, or settle any property, moveable or immoveable, of what nature or kind soever, upon or subject to any Trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the Official Trustee, to appoint him, by the deed creating the Trust, to be the Trustee of such settlement; and upon such appointment, the property so granted, assigned, or settled shall vest in such Officer and his successors in Office, and shall be held by him and them upon the Trust declared and contained in the said deed: Provided, always, that the consent of the Official Trustee shall be recited in the said deed, and that the deed shall be duly executed by the Official Trustee: Provided, also, that no Trust for any religious purpose shall ever be held by the Official Trustee, under this or under any other Section of this Act.

Official Trustee appointed under preceding Section to receive only the remuneration specified in the deed.

IX. Every Official Trustee appointed Trustee of any property under the last preceding Section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

Under what other circumstances Official Trustee may be appointed Trustee of any property.

X. If any property is subject to a Trust, whether for a charitable purpose or otherwise, and there shall be no Trustee willing to act or capable of acting in the Trusts thereof, who is within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court, or if property is subject to a Trust, and all the Trustees, or the surviving or continuing Trustee, and all the persons beneficially interested in the said Trust, shall be desirous that the Official Trustee shall be appointed in the room of such Trustees or Trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the Official Trustee, to appoint the Official Trustee to be the Trustee of such property; and upon such appointment such property shall vest in the Official Trustee and his successors in Office, and shall be held by him and them upon the same Trusts as the same were held previous to such appointment.

Rate of Commission under last preceding Section.

XI. The Official Trustee shall be entitled by way of remuneration, in respect of all Trust property transferred to him under the last preceding Section, to a commission, the rate of which shall be as follows, that is to say:—

On all capital monies received by him, a commission of one-half per cent. on receiving the same.

On all capital monies invested by him, a commission of one-half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of monies invested, a commission of three-quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

What expenses, &c., commission to cover.

XII. The Official Trustee shall defray all the expenses of the establishment necessary for his Office, including the provision of Office accommodation, together with all other charges to which the said Office shall be sub-

ject, except those for which express provision is made by this Act, and except those costs of litigation and the like which a Trustee would, under ordinary circumstances, be entitled to pay for out of the Trust monies in his hand. The commission to which the Official Trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection, and distribution.

Official Trustee to be in all cases sole Trustee.

XIII. It shall in no case be lawful to appoint the Official Trustee to be a Trustee along with any other person: but the Official Trustee shall always be sole Trustee.

Official Trustee how to invest Trust money.

XIV. The Official Trustee shall cause all capital monies received by him to be invested in Government Securities, or otherwise as the Court shall direct: and if in any case the Trust funds, or any part of them, shall at the time of their vesting in the Official Trustee be invested otherwise than as provided in the deed or Will creating the Trust or than as ordered by the Court, it shall be the duty of the Official Trustee, as soon as he reasonably can, to realize the funds so improperly invested, and to invest the same in Government Securities, or otherwise as the Court shall direct.

High Court may make orders as to property vested in Official Trustee.

XV. The High Court may make any such orders as shall seem to it necessary respecting any Trust property vested in the Official Trustee, or the interest or produce thereof. All such orders shall be made on petition, unless the Court shall direct a suit to be instituted.

Re-transfer of Trust property to original, or transfer to other, Trustee.

XVI. Nothing in this Act shall prevent the re-transfer of any Trust property which may have become vested in the Official Trustee, to the original or any subsequently appointed Trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or Will creating the Trust.

Order appointing Official Trustee.

XVII. All orders which shall be made appointing any Official Trustee to act as Trustee in virtue of his Office, shall appoint him by his name of Office, and shall authorize the Official Trustee for the time being of the same Presidency to act as Official Trustee of the property to which such order shall relate: and all property and interests which at the time of the death, resignation, or removal from Office of any Official Trustee shall be vested in him by virtue of such order, shall, upon such death, resignation, or removal, cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto: and all books, papers, and documents kept by such Official Trustee by virtue of his Office shall be transferred to, and vested in, his successor in Office.

On death, &c., of Official Trustee, property to vest in his successor.

Official Trustee to sue or be sued by his name of Office. Suit not to abate by death, &c.

XVIII. All actions, suits, or other proceedings which shall be commenced by, or against, any Official Trustee in his official character, may be brought by, or against, him by his name of Office, and no suit, action, or other proceeding already commenced, or which shall be commenced, by, or against, any person as Official Trustee, either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from Office of any such Official Trustee, but the same may by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be con-

tinued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred:

Proviso.

Provided that nothing herein contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him, or shall release an Official Trustee who has resigned or been removed from his Office, or the heirs, executors, administrators, or representatives of a deceased Official Trustee from being liable for any such costs.

Official Trustee to keep a separate account of each Trust, to be open to inspection by the Chief Justice and any person authorized by him to demand inspection.

XIX. Every Official Trustee appointed under this Act shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each Trust of which he is the Trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in Trust for him, under this Act, and likewise of all payments made by him on account of such Trust, and of all debts due by, or to, the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Official Trustee's Office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

XX. The Chief Justice shall have power, from time to time, to make and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the Trust Funds and securities which shall come to the hands or possession of the Official Trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the Official Trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Official Trustee, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging to the Trust of which the Official Trustee is the Trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

Publication of orders, &c.

XXI. Such orders shall be published in the Official Gazette, and it shall be the duty of the several Official Trustees to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Official Trustee to furnish Annual Schedules which shall be filed in the High Court.

XXII. The Official Trustee of each of the said Presidencies shall once in every year, that is to say, on the 1st day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true Schedule showing the gross amount of all sums of money received or paid by him on account of each Trust of which he is the Trustee, and the balances during the year ending on the 31st day of December next before the day of delivering such Schedule, and a true list of all securities received on account of each of the said Trusts during the same period; and also a true Schedule of all trusts which shall have come to an end, or of which the Official Trustee shall have ceased to be the Trustee, and the property subject

to which shall have been paid or made over to the persons entitled to the same or to new Trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said Schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same, or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

Inspection of Schedules so filed.

XXIII. The Chief Justice shall from time to time appoint an Auditor or Auditors to examine the accounts of the Official Trustee at the time of the delivery of the said Schedules, and also at any other time when the Chief Justice shall think fit.

Chief Justice to appoint Auditors.

XXIV. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Chief Justice whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid shall be, directed to be kept by the Official Trustee, have been duly and regularly kept, and whether the Trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedules and accounts of Official Trustee, and to report to Chief Justice.

XXV. Every Auditor shall have power to summon as well the Official Trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Official Trustee or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Official Trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the High Court; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Auditors to have power to summon witnesses and to call for books, &c.

Penalty for refusal or neglect to attend, produce books, &c.

XXVI. The costs and expenses of preparing the said Schedules and accounts, and of every such reference and examination as aforesaid, shall be defrayed by all the Trust estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said Trust estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the Official Trustee.

Costs of preparing Schedules, &c., how to be paid.

XXVII. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct

Matters to be reported on by the Auditors.

account of the matters therein contained, or which ought to be therein contained, or that the Trust Funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Official Trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Proceedings upon such report.

XXVIII. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate-General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the Trust estates then or formerly under the charge of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs upon such proceedings, &c., how to be defrayed.

XXIX. The costs, including those of the Advocate-General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the Trust estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Official Trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have the effect of, and to be executed as, decrees.

XXX. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

Who may apply for order under this Act.

XXXI. Any order under this Act may be made on the application of any person beneficially interested in any Trust property, or of any Trustee thereof, whether under disability or not.

Executor or Administrator may, by leave of the High Court, pay to Official Trustee legacy, share, &c., to which an Infant or Lunatic is entitled.

XXXII. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the Executor or Administrator by whom such legacy, residue, or share may be payable or transferable, or the party by whom such gift may be made, or any Trustee of such gift, legacy, residue, or share, to pay or transfer the same to the Official Trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the Official Trustee or invested in him under this Section shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee under the provisions thereof.

ACT No. XVIII. OF 1864.*

Lucknow.

1. The City of Lucknow to have a Municipal Committee, consisting of 25 persons, of whom 6 to be *ex-officio* Members.

2. The Commissioner and Deputy Commissioner of Lucknow, the Inspector General of Police in Oude, and the Civil Surgeon, Executive Engineer, and City Magistrate of Lucknow to be the *ex-officio* Members. Non-Official Members to be elected annually, but to be eligible for re-election.

3. Chief Commissioner to define the limits of the City, and to regulate the mode of election. Persons elected to be subjet to his approval.

4. Chief Commissioner may remove any Non-Official Member, and determine whether any person shall be elected in his stead.

5. Chief Commissioner may, with the sanction of Government, suspend or limit the power of the Committee.

6. Commissioner of Lucknow to be the President, Deputy Commissioner, the Vice-President, and the City Magistrate, the Secretary.

7. Committee may do all acts and things necessary to the conservancy and improvement of the City

8. Committee may enter into contracts, verbal or written; but no contract involving more than 10,000 Rupees to be binding on the Committee, unless made in writing and sanctioned.

9. No Member personally liable for a contract, but only for any misapplication of money to which he shall have been a party, or which may have happened through gross neglect of his duty.

10. Annual estimate of expenditure to be submitted.

11. Committee to furnish annual statements of work done and monies received and expended.

12. Monies made over to the Committee, and fines levied under this Act, to form the Municipal Fund.

13. Duties on such things and at such rates as shall be fixed by the Chief Commissioner, with sanction, to be levied when such things are brought into the City for consumption or use. The collection may be farmed out, but Chief Commissioner to regulate the mode of collection.

14. Out of the monies collected, Chief Commissioner to make over to the Committee a sum not less than one-third.

15. The Committee may make Bye-laws for the management of all matters connected with the conservancy and improvement of the City. Penalties for infringement not to exceed 50 Rupees, and in the caseof continued infringements not to exceed ten Rupees a day.

16. Bye-laws not to have effect until approved and confirmed by the Chief Commissioner, and duly published.

17. Copies of Bye-laws, in English and Hindoostanee, to be exhibited in the Office of the Committee.

18. Bye-laws to have effect as if inserted in this Act.

19. Prosecutions to be instituted before persons exercising the powers of a Magistrate under the Criminal Procedure Code.

20. Chief Commissioner, in the execution of this Act, to be subject to the orders of the Governor-General in Council.

21. Repealed by Act XXII. of 1865.

22. Chief Commissioner of any place to which this Act is extended may, with sanction, in lieu of the provisions of Sections 13 and 14, define the persons or property to be taxed, the amount or rate of the tax, and the mode of collecting and applying it.

An Act to provide for the appointment of a Municipal Committee for the City of Lucknow.

Preamble.

Whereas it is expedient to make provision for the appointment of a Municipal Committee for the City of Lucknow, and for levying duties on certain articles brought within the limits of the said City for consumption there, and generally for the regulation of all matters relating to the conservancy and improvement of the said City: It is enacted as follows:

Appointment of Municipal Committee.

I. On and after such date as the Chief Commissioner of Oude shall order, there shall be a Committee for the purposes of this Act, which shall be called "The Municipal Committee of the City of Lucknow." The said Committee shall consist of twenty-five Members, of whom six shall be *ex-officio* Members.

Ex-officio Members of Committee.

II. The persons for the time being filling the following Offices shall respectively be *ex-officio* Members of the Municipal Committee. That is to say, the persons filling the Offices of—

Commissioner of Lucknow,
Deputy Commissioner of Lucknow,
Inspector General of Police in Oude,
Civil Surgeon of Lucknow,
Executive Engineer of Lucknow,
City Magistrate of Lucknow.

* See Act XXII. of 1865.

The Non-Official Members of the said Committee shall be elected annually by and from amongst the inhabitants of the City, and shall hold office for one year only, but shall be eligible for re-election.

Non-Official Members to be elected annually.

III. The Chief Commissioner of Oude shall from time to time declare what shall be deemed to be the limits of the City of Lucknow for the purposes of this Act. He shall also declare who are, for the purposes of the last preceding Section, to be deemed inhabitants of the said City, and shall lay down rules fixing the times when the election of the Non-Official Members of the Committee shall take place, and regulating the manner in which the elections shall be conducted. The appointment of every Non-Official Member shall be subject to the approval of the Chief Commissioner; and in the event of any person elected not being approved of by him, the inhabitants shall proceed forthwith to elect another person in his stead.

Chief Commissioner to define limits of Lucknow, and to regulate the mode of election. Appointment of Non-Official Members to be subject to his approval.

IV. It shall be lawful for the Chief Commissioner to remove from office any Non-Official Member of the Committee; and in the event of any such Member being so removed, it shall be in the discretion of the Chief Commissioner to determine whether or not any person shall be elected to supply his place for the unexpired portion of the year for which such Member was elected.

Chief Commissioner may remove Non-Official Members.

V. It shall be lawful for the Chief Commissioner at any time, with the sanction of the Governor-General of India in Council, to suspend or limit the powers or any of the powers of the Committee.

Powers of the Committee how to be limited or suspended.

VI. The Commissioner of Lucknow for the time being shall be the President of the Committee; the Deputy Commissioner of Lucknow shall be the Vice-President, and the City Magistrate of Lucknow shall be the Secretary.

What officers to be President, Vice-President, and Secretary of the Committee.

VII. The Municipal Committee, so far as the funds at their disposal will permit, shall keep the streets, drains, and tanks of the City properly cleansed and repaired, and shall cause the said streets, or such of them as may to them seem proper, to be lighted, and may construct new streets, drains, and tanks, and generally may do all acts and things necessary to the conservancy and improvement of the City, so far as such acts and things be not repugnant to or, inconsistent with, the provisions of this or any other Law.

Committee to do acts necessary for the conservancy and improvement of the city consistently with law.

VIII. It shall be lawful for the Municipal Committee from time to time to enter into all necessary contracts for the purposes of this Act. Such contracts, if in writing, shall be signed by the Secretary and at least three Members of the Committee, and if any such contract be not reduced to writing, it shall be made with the Secretary. No contract made otherwise than as herein declared shall be in any way binding on the Committee, and no contract involving an expenditure of more than 10,000 Rupees shall be binding on the Committee unless made in writing and with the sanction of the Chief Commissioner of Oude.

What contracts may be made by the Committee and in what mode.

IX. No Member of the Committee shall be personally liable for

Members of the Committee not to be personally liable upon contracts made by the Committee.

Under what circumstances to be liable for the misapplication of money entrusted to the Committee.

any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts and expenses duly incurred as aforesaid. Every Member of the Committee shall be liable for any misapplication of any monies entrusted to the Committee, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and he shall be liable to be sued for the same in such Court as the Chief Commissioner of Oude shall direct, as for money due to the Government of India.

Annual estimate of expenditure to be incurred during the year to be sent to Chief Commissioner.

X. The Committee shall each year, on or before such date prior to the 1st day of May as shall be fixed by the Chief Commissioner, furnish the Chief Commissioner with a statement or estimate (in such form as the Chief Commissioner shall direct) showing the expenditure which it is proposed by the Committee to incur during the year commencing on the 1st day of May then next, and the items in respect of which it is proposed to make such expenditure.

Accounts and statement of work done, receipts, and expenditure to be anually furnished to Chief Commissioner.

XI. The Committee shall, as soon as may be after the 1st day of May in each year, provide the Chief Commissioner with a statement in detail of all the work done by them, and of all sums received and of all sums expended by them during the year ending on the 30th day of April then next preceding in such form as the Chief Commissioner shall from time to time direct.

Municipal Fund.

XII. All such monies as the Chief Commissioner or any other person shall from time to time make over to the Municipal Committee for the purposes of this Act, and all fines levied under this Act, shall form a Municipal Fund, of which the Committee shall be the Trustees, and which shall be applied by the Committee to the conservancy and improvement of the City of Lucknow, and to the payment of the salaries and wages of the Officers and servants employed by the Committee, and all other expenses incurred in or about the carrying out the provisions of this Act.

Duty to be leived on articles taken into the City of Lucknow for consumption or use. Rates how to be fixed.

XIII. Duties on such things, and at such rates as the Chief Commissioner shall, with the sanction of the Governor-General of India in Council, from time to time declare, shall be levied in respect of the said things when brought into the City of Lucknow for consumption or use therein. The said duties shall be collected by such persons and in such manner as the Chief Commissioner shall direct. It shall be lawful for the Chief Commissioner to farm or let out the collection thereof for such period or periods as he shall think fit, but he shall in every case lay down rules as to the mode of levying and collecting the duties, and such rules shall have the like force and effect as Bye-laws duly made by the Committee.

Money received on account of duty to whom to be paid.

XIV. All monies received on account of the duties aforesaid, if the same be collected directly under the orders of the Chief Commissioner, and all monies received from the farming or letting out the collection of the duties, shall be paid into the Bank of Bengal to the

credit of the Chief Commissioner. Out of the monies paid in under this Section, the Chief Commissioner shall (after defraying the costs of collection, if any) make over to the Committee, for the purposes of this Act, such sum, not being less than one-third of the monies so paid in, as shall to the Chief Commissioner seem proper.

Power of the Committee to make Bye-laws.

XV. The Municipal Committee may from time to time make such Bye-laws as they may think fit, for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code; for regulating the time and place of meeting of the Committee; the conduct of business at such meetings; the division of duties among the Members of the Committee; the appointment, suspension, and removal of Officers and servants of the Committee, and fixing the salaries of such Officers and servants; for imposing penalties for the infringement of any Bye-law made by the Committee; and generally for the management of all matters connected with the conservancy and improvement of the City. The Committee may also from time to time repeal, alter, and amend any such Bye-laws: Provided that no Bye-law shall be repugnant to any law in force: Provided, also, that no penalty for the infringement of any such Bye-law shall exceed 50 Rupees, and that, in case of a continuing infringement, no penalty shall exceed ten Rupees for every day after notice from the Committee of such infringement.

Bye-laws to be approved by Chief Commissioner.

XVI. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Chief Commissioner, and shall have been duly published for such length of time and in such manner as the Chief Commissioner shall order.

Copies of Bye-laws to be exhibited in the office of the Committee.

XVII. A copy in the English and Hindoostanee languages, of every Bye-law and alteration of a Bye-law for the time being in force shall be painted on or affixed to boards, and such boards shall at all times be hung up in some conspicuous part of the office of the Committee.

Bye-laws to be of the same effect as if they were inserted in this Act.

XVIII. All Bye-laws, when the same shall have been duly confirmed and published, shall, until the same be repealed or altered, be of the like effect as if they were inserted in this Act.

Before whom prosecutions to be instituted under this Act.

XIX. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and all fines imposed may be recovered in the manner prescribed in Section 61 of the said Code. The amount of all fines realized shall be paid to the Municipal Committee, and be applied by them to the purposes of this Act.

Control to be exercised by the Government.

XX. The Chief Commissioner of Oude shall, in every thing done under, or relating to, this Act, be subject to the orders and control of the Governor-General of India in Council.

XXI. *Repealed and re-enacted by Act XXII. of* 1865.

A system of taxation for such place may be established in

XXII. The Chief Commissioner of any place to which this Act shall be extended under the last preceding Section, may, with the sanction of the Governor-General of India in Council, declare that Sections 13 and

lieu of the provisions of Sections 13 *and* 14 *of this Act.*

14, or either of them, or any of the provisions of those Sections, shall be of no effect in such place, and may also, with the like sanction, define the persons or property within such place to be taxed for raising the monies necessary for the purposes of this Act, whether by house assessment or town duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them and ensuring the safety and due application of them when collected: Provided that no tax, duty, or other rate shall be levied under this Section in any place in which duties are levied under Section 13 of this Act.

Proviso.

ACT No. XIX. OF 1864.

Mirzapore.

1. Tracts of country described in the Schedule, removed from the jurisdiction of the ordinary tribunals.

2, 3, and 4. Repealed.

An Act to remove certain tracts of country in the District of Mirzapore from the jurisdiction of the local Courts.

Whereas it is expedient to remove certain tracts of country in the District of Mirzapore from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that District under the General Regulations and Acts of the Government; It is enacted as follows:—

Preamble.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Officers of Revenue, constituted by that the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council: Provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Certain tracts removed from the jurisdiction of the ordinary tribunals.

Proviso.

II.—IV. *Repealed by Act XIV.*, 1870.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—
Pergunnah Agoree, Tuppahs Agoree Khas and Syuth Kone.
Pergunnah Singrowllee, Tuppah British Singrowlee.
Pergunnah Bicheepore, Tuppahs Phoolwa, Doodhoe, and Burha.

ACT No. XX. OF 1864.

Bombay.

1. Care of the persons of Minors (not being European British subjects) and charge of their property vested in the Civil Court.

2. Except where the property is small, no person to institute or defend a suit connected with the estate of a Minor, unless he has obtained a Certificate of Administration.

3. A reiative or friend, or the Collector of the District when the property consists of land, may apply to the Court to appoint a person to take charge of the property and persons of Minor.

4. If property be situate in more than one District, application to be made to the Court of the District in which tbe Minor resides.

5. On such application, Court to fix a day, and after summary enquiry to pass orders in the case.

6. Court to grant Certificate to person entitled under a will, or failing such, to any near relative. Such person may also be appointed guardian of the person of the Minor.

7. Court may call for a report, from the Collector or Magistrate, of the character and qualification of relative.

8. If there be no person entitled to a Certificate, Court to proceed as hereinafter provided.

9. If estate consists of moveable property or of houses, gardens, and the like, Court to grant Certificate to Curator appointed under Section 19, Act XIX. of 1841, or to any other fit person.

10. Person obtaining Certificate may be also appointed guardian, uuless he be the Curator or legal heir. Court may assign an allowance for the discharge of the trust, and far the maintenance of the Minor and his relatives.

11. Court may direct the Collector to take charge of an estate consisting wholly or in part of land.
12. Court may take security from person obtaining Certificate, other than the Collector or Curator.
13. Costs of proceedings under the Act may be directed to be paid by the applicant or out of the estate of the Minor.
14. When one of the proprietors comes of age, Court may either direct Collector to retain charge of the shares of the others, or to make it over to the qualified proprietors.
15. Proceedings of Collector to be subject to the control of the superior Revenue Authorities.
16. Curator or other Administrator to deliver into Court, within six months, an inventory of the immoveable and moveable property of the estate, and a statement of the debts due by or to it; and also to furnish an annual account. If the inventory or account be impugned, Court may enquire into the matter.
17. Sums received by Curator or Administrator on account of any estate, in excess of current expenses, to be invested in public securities.
18. Manager to have the same powers as the proprietor; but not to sell or mortgage the property, or to grant a lease exceeding five years without sanction.
19. Relative or friend may sue Manager or his representative for an account.
20. Minor attaining his majority may continue a suit instituted for his benefit during his minority.
21. Court may, for sufficient cause, recall Certificate, and direct Collector to take charge, or grant a fresh Certificate to the Curator or other person, and may compel delivery of property and accounts. Court may also remove any guardian appointed by it.
22. Court may impose a fine, not exceeding 500 Rupees, on a person refusing or neglecting to deliver accounts or property, and may commit him to the Civil Jail until such delivery.
23. Court may permit a Manager (not being the Curator) or a guardian to resign his trust, on such person accounting for monies, and making over property.
24. Curator and other Administrator entitled to a 5 per cent. Commission or such other allowance as the Court shall think fit.
25. Guardian of a male Minor to provide him a suitable education under superintendence and control of the Court.
26. Court may determine the residence and place of education of Minor.
27. Or may direct that the Minor be educated by a property qualified private tutor.
28. Charges of education and expenses of residence to be defrayed from profits of estate.
29. Guardian to pay necessary expenses of marriage of Minor; but estate not to be involved in debt on such account without sanction.
30. Persons under 18 years to be held to be Minors.
31. No guardian to be appointed of the person of a female whose husband is not a Minor, nor any person but a female to be guardian of the person of a female.
32. Act not to interfere with Act XXXV. of 1858.
33. Orders of the Civil Court open to the appeal to the High Court, and to be subject to the provisions of Section 366 of the Civil Procedure Code.
34. Interpretation.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Bombay.

Preamble.

Whereas it is expedient to make better provision for the care of the persons and property of Minors in the Presidency of Bombay; It is enacted as follows:

Care of persons and charge of property of Minors vested in the Civil Court.

I. The care of the persons of all Minors (not being European British subjects) and the charge of their property shall vest in the Civil Court.

What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration.

No person to institute or defend a suit without such Certificate.

Proviso.

II. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed or other instrument in writing, or by reason of nearness of kin or otherwise, may apply to the Civil Court for a Certificate of Administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate: Provided that when the property is of small value, not exceeding 250 Rupees, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of Administration has not been granted to such relative.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

III. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

To what Court application to be made if property be situate in more than one District.

IV. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

Enquiry to be summarily made on application.

V. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall inquire summarily into the circumstances, and pass orders in the case: Provided, always, that it shall be competent to the Civil Court to direct any Court subordinate to it to make such inquiry and report the result.

Proviso.

Certificate of Administration to whom to be granted.

VI. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed or other instrument in writing, and is willing to undertake the trust, the Court shall grant a Certificate of Administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also if it think fit (unless a Guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

The Court may appoint person having Certificate Guardian of Minor's person.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

VII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor who may be desirous or willing to be entrusted with the charge of his property or person, and it shall be incumbent on the Collector or Magistrate to furnish such report after making all due inquiry.

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the charge of property, &c., of Minor.

VIII. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed or other instrument in writing, and if there be no near relative willing and fit to be entrusted with the charge of the property or person of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property or person, the Court shall proceed to make such provision in the manner hereinafter provided.

If estate consists of moveable property, &c., Court may grant Certificate to Public Curator or other person.

IX. If the estate of the Minor consists of moveable property or of houses, gardens, or the like, the Court shall grant a Certificate to the Public Curator appointed under Section 19, Act XIX. of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of Succession)*, or if there be no Public Curator, to any fit person whom the Court may select for the purpose.

Appointment of Guardian.

X. Whenever the Court shall grant a Certificate of Administration to the estate of a Minor as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of Administration has been granted, unless he be the Public Curator, or the legal heir of the Minor, or next in succession to the property, may be appointed Guardian: Provided that in the case of Minors who have inherited property by adoption, the natural father may be appointed Guardian.

Allowance of Guardian.

If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor, surviving parent whether natural or adoptive, husband, wife, and children, if any, and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

Allowance for maintenance of Minor, &c.

When the estate consists of land, Court may direct Collector to take charge of estate.

XI. If the estate of the Minor consist in whole or in part of land or any interest in land, the Court may direct the Collector of the District in which the larger part of the same may be situated to take charge of the estate.

Court may take security.

XII. The Civil Court may take such security as it shall think necessary, from any person to whom it may grant a Certificate of Administration of the property of any Minor under this Act. Provided, always, that no such security shall be demanded from the Collector of a District or the Public Curator, when their services may be availed of.

Proviso.

Cost of inquiries under this Act.

XIII. In all inquiries and other proceedings held or had by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application such inquiry was made or proceeding had, or out of the estate of the Minor, or otherwise, as it may think proper.

Course to be followed when one of the proprietors of an estate then under Collector's charge may come of age.

XIV. Whenever one or more of the proprietors of an estate which has been placed under the Collector's charge shall have passed his or their minority, the Collectorshall represent the fact to the Civil Court, and the Court,unless it see sufficient reason to the contrary, may direct the Collector to retain charge of the shares of the property of the still disqualified proprietors during the continuance of their disqualification, or until it shall be otherwise ordered by the Court; or the Court may direct the whole estate to be made over to the management of the proprietor or proprietors who shall have become of age, with such directions as to the share or shares of the still disqualified proprietor or proprietors as to the Court shall seem fit and proper.

Proceedings of Collector subject to control of the higher Revenue Authorities.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to control of the superior Revenue Authorities.

XVI. The Public Curator and every other Administrator to whom

Public Curator, &c., to furnish an inventory and annual accounts.

a Certificate shall have been granted under Section 10 shall, within six months from the date of the Certificate, deliver in Court an inventory of all the immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually, within three months from the 1st of May of the Christian era, an account of the property in his charge, exhibiting the amounts received, disbursed, and invested on account of the estate, and the balance in hand. If any relative or friend of a Minor, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator, and inquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer such petition to any subordinate Court for investigation and report.

Proceeding if the inventory or account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall by him be invested on account of the estate, from time to time, in the public securities.

Surplus funds to be invested by Public Curator, &c., in Public Securities on account of the estate.

XVIII. Every person to whom a Certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell, alienate, mortgage, or otherwise incumber any immoveable property, or to grant a lease thereof for any period exceeding five years, without the sanction of the Civil Court previously obtained.

Powers of the Certificate holder in management of Minor's estate.

XIX. It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative or friend may sue for an account.

XX. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Continuance of suit instituted under this Act after disqualification shall have ceased.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a fresh Certificate to the Public Curator or

Revocation of Certificate.

any other person, as the case may be, and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

Removal of Guardian.

XXII. The Civil Court may impose a fine, not exceeding 500 Rupees, on any person who may wilfully neglect or refuse to deliver his account or any property in his hands, within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to confinement in the Civil Jail until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act, not being the Public Curator, and any Guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor duly appointed for all monies received and disbursed by him and making over the property in his hands.

Civil Court may permit resignation of trust, &c.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section 10, shall be entitled to receive such commission, not exceeding five per centum, on the sums received and disbursed by him, or such other allowance to be paid out of the Minor's estate, as the Civil Court shall think fit.

Remuneration of Public Curator, &c.

XXV. Every Guardian appointed by the Civil Court under this Act who shall have charge of any male Minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court.

Guardian of Minors under this Act to provide for their education.

XXVI. In the exercise of this superintendence and control, it shall be lawful for the Civil Court to direct that such Minor shall reside either with or without his Guardian at the Sudder Station of the District, or at any other place within the Presidency of Bombay, and shall attend for the purposes of education such School or College as to the said Civil Court may seem expedient, and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Civil Court may fix the residence of Minor.

XXVII. If it shall appear to the Civil Court inexpedient to place any such Minor at School or College, it shall, if the proceeds of the estate are sufficient for that purpose, cause such Minor to be educated by a private tutor, properly qualified, either at the family residence of such Minor or at the Sudder Station, or elsewhere within the Presidency of Bombay, and in that case also the Civil Court shall have power to determine, from time to time, the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Or in certain cases cause Minor to be educated privately.

Charges and expenses incurred under this Act for education, &c., to be paid out of the profits of Minor's estate.

XXVIII. All charges and expenses which may be incurred on account of any male Minor under the provisions of this Act, for College and School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Civil Court.

Marriage of Minors.

XXIX. Every Guardian appointed under this Act who shall have charge of an unmarried Minor, shall pay all the necessary expenses of the marriage of such Minor out of the estate: Provided that these expenses shall in no case, without the sanction of the Civil Court, involve the Minor's estate in debt.

Who to be held a Minor for the purposes of this Act.

XXX. For the purposes of this Act, every person shall be held to be a Minor who has not attained the age of eighteen years.

Nothing in Act to authorise the appointment of Guardians of certain married women.

Guardianship during minority of the husband of a Minor when to cease.

XXXI. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the hushand of the Minor, the Guardianship shall cease as soon as the husband shall attain the age of majority.

Act not to interfere with Act XXXV. of 1858.

XXXII. Nothing in this Act shall be held to interfere with the provisions of Act XXXV. of 1858 *(for making better provision for the care of the Estates of Lunatics.)*

Orders of the Civil Court open to appeal.

XXXIII. All orders passed by the Civil Court under this Act shall be open to appeal to the High Court at Bombay, and shall be subject to all the provisions contained in Section 366 of the Code of Civil Procedure.

Construction of words "Civil Court."

Powers of High Court not to be affected.

XXXIV. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original civil jurisdiction in the District, and shall not include the High Court of Judicature; and nothing contained in this Act shall be held to affect the powers of the High Court of Judicature over the person or property of any Minor subject to its jurisdiction. Unless the contrary appear from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Number.

Gender.

ACT No. XXI. OF 1864.

Calcutta.

1. Persons charged, within the Town and Port of Calcutta, with offences under Chapter XIV. of the Penal Code (except Sections 280 and 281), may be tried summarily before a Magistrate of Police, and punished with imprisonment not exceeding six months, and fine not exceeding 200 Rupees, or may be committed to the High Court.

2. Sections 62, 63, and 308 to 314 of the Code of Criminal Procedure extended to the Town and Port of Calcutta; the words "Magistrate" and "Magistrate of a District" as there used to denote any Magistrate of Police authorized in that behalf by the local Government.

3. Magistrate so authorized may, without any complaint, take cognizance of offences coming to their knowledge.

4. The procedure of Act XIII. of 1856 to be applicable to cases under this Act.

5. Act to come into operation on 1st May, 1864.

6. Act may be extended by the Governments of Fort St. George and Bombay, respectively, to the Towns and Forts of Madras and Bombay.

An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.

Preamble.

Whereas it is expedient to empower the Magistrates of Police in Calcutta to punish summarily certain offences in addition to those which they are now empowered so to punish; It is enacted as follows:

Persons guilty of certain offences may be tried summarily by a Police Magistrate.

I. Every case in which any person is charged before a Magistrate of Police in Calcutta with having, within the limits of the said Town, or within the limits of the Port of Calcutta as those limits are, or may hereafter be, defined under Act XXII. of 1855 *(for the regulation of Ports and Port-dues)*, committed any offence under any of the provisions contained in Chapter XIV. of the Indian Penal Code, except Sections 280 and 281, may be heard and determined by such Magistrate in a summary way: and every such person shall, on conviction by such Magistrate, be punished in the manner provided by the Indian Penal Code for the punishment of the offence of which he shall be convicted: Provided that no Magistrate shall under this Act be competent to pass sentence in respect of any offence beyond the following limits, that is to say:—Imprisonment of either description not exceeding six months, or fine not exceeding 200 Rupees, or both imprisonment and fine in case in which both punishments are authorized by the Indian Penal Code: Provided, also, that the Magistrate may commit to the High Court for trial any such case which he may in his discretion think it proper so to commit.

Sections 62, 63, 308, 309, 310, 311, 312, 313 and 314 of the Criminal Procedure Code extended to Town of Calcutta.

II. Sections 62, 63, 308, 309, 310, 311, 312, 313, and 314 of the Code of Criminal Procedure are hereby extended to, and shall have operation within, the Town of Calcutta, and within the limits of the Port of Calcutta defined as aforesaid; and the words "Magistrate" and "Magistrate of a District" as used in the said Sections shall denote any Magistrate of Police in Calcutta who may be authorized in that behalf by the local Government.

Magistrate may take cognizance of offences without complaint made.

III. Any Magistrate of Police in Calcutta, authorized as aforesaid, may without any complaint take cognizance of any offence which he has power to hear and dispose of in a summary manner, which may come to his knowledge, and he may issue a summons, or, in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

IV. Save as in this Act otherwise provided, the procedure con-

Procedure in such cases.

tained in Act XIII. of 1856 *(for regulating the Police of the Towns of Calcutta, Madras, and Bombay)*, as amended by Act XLVIII of 1860 *(to amend Act XIII. of* 1856*)*, shall be applicable to offences commiited and charges made under this Act.

Commencement of Act.

V. This Act shall come into operation on the 1st day of May, 1864.

This Act may be extended by the Governments of Madras and Bombay.

VI. This Act may, by an order of the Gevernor in Council of Fort St. George, or of the Governor in Council of Bombay, respectively, to be published in the Official Gazette, be extended to the Towns and Ports of Madras and Bombay, and when so extended by such order, shall take effect in the Town and Port to which the order shall relate from the date of the publication of such order. When so extended to either the Town and Port of Madras, or the Town and Port of Bombay, this Act shall in all respects apply to such Town and Port as if the name of such Town and Port had appeared in this Act wherever the name of Calcutta appears.

ACT No. XXII. OF 1864.

General.

1. Interpretation.
2. Repealed.
3. Person invested with the powers of a Magistrate within any Cantonment to be styled the Cantonment Magistrate.
4. Cantonment Magistrate to be considered a Magistrate in charge of a Division of a District.
5. Person invested with the powers of a Subordinate Magistrate of the 1st or 2nd Class within any Cantonment, to be styled the Assistant Cantonment Magistrate.
6. A Court of Small Causes, with a jurisdiction not exceeding 500 Rupees, may be established within any such limits: the Cantonment Magistrate to be the Judge of such Court.
7. Provisions of Act XLII. of 1860 to be applicable to such Court.
8. When any such Court is established, jurisdiction exercised under Act III. of 1859, and the power to convene Military Courts of Requests, to cease.
9. Assistant Cantonment Magistrates may be invested with the powers of a Judge of a Court of Small Causes for the trial of suits not exceeding 50 Rupees.
10. Any Cantonment may be declared a Sub-District under the Registration Act (XVI. of 1864,) and the Cantonment Magistrate may be declared the Deputy Registrar thereof.
11. Police employed in any Cantonment to be deemed a part of such Police, and the administration of such Police to be vested in the District Superintendent, subject to the control of the Commanding Officer.
12. Section 34 of Act V. of 1861 may be extended to any Cantonment.
13. Commanding Officer may require Chief Police Officer in the Cantonment to serve and execute process.
14. The Chowkeedary Act (XX. of 1856) may be extended to any Cantonment, in which case the Cantonment Magistrate to exercise the powers of a Magistrate under that Act, subject to the control of the Magistrate of the District and the local Government.
15. Such Cantonment may be divided into any number of divisions: Government to decide the nature of the tax to be levied in each division.
16. Government may prescribe Rules for regulating the expenditure of funds raised under Act XX. of 1856.
17. Government may make general or special Rules for certain specified matters.
18. Rules to be confirmed by Governor-General in Council, and to be exhibited in the Office of the Cantonment Magistrate.
19. Rules so made may provide—

(1.) Where the land belongs to Government, the conditions of occupation and use, of resumption, and of compensation for resumption.
(2.) For keeping registers of immoveable property, and registering transfers thereof.
(3.) Manner of claiming purchase or hire of houses for accommodation of Military Officers.
(4.) For the management and expenditure of funds available for improvements, and the appointment of servants and establishments.
(5.) For the definition and prohibition of nuisances.
(6.) For the maintenance of a proper conservancy.
(7.) For controlling houses of ill-fame, and preventing the spread of venereal disease.
(8.) For the supervision of public wells and tanks.
(9.) For the execution of works of public utility.
(10.) For the registration of deaths.
(11.) For imposing penalties, not exceeding 50 Rupees fine or eight days' imprisonment, for breach of Rules.

20. Breaches of Rules triable by the Cantonment Magistrate, or his Assistant if invested with such power. Magistrate of District to have no control in such cases.
21. Fines may be levied by distress and sale of moveables.
22. If fine cannot be realized, offender liable to imprisonment without labour for any term not exceeding one month.
23. Imprisonment without labour to be in the Civil Jail: if with labour in the Criminal Jail.
24. Person may be prosecuted under any other Regulation or Act, but not to be punishable twice for the same offence.

25. Rules made under Clause 7 of Section 19 may be extended by the Governor-General in Council to places in the vicinity of any Cantonment.

26. On such extension, Governor-General in Council to provide for the imposition of penalties for breach of such Rules.

27. Courts and Magistrates to take judicial notice of Rules made under Section 17 or 25.

28. Local Regulations regarding Non-Military matters to cease to have effect after the promulgation of Rules.

29. Person not amenable to the Articles of War liable to a fine of 100 Rupees or imprisonment for three months, or to whipping, for bartering or selling, without a license, to any European Soldier or his wife, or to any European or Eurasian Camp-Follower, any spirituous liquors or intoxicating drugs.

30. On second conviction, spirituous liquors or drugs in the possession of such person may be seized and confiscated.

31. Camp-Followers, Military Pensioners, and their wives or widows, or the wife or widow of any Soldier, having in possession without a permit spirituous liquors or wine exceeding one seer or quart, liable to a fine of 50 Rupees, and on subsequent convictions to a fine of 100 Rupees or imprisonment for three months.

32. Person committing an offence under two preceding Sections may be arrested without a warrant, and the liquor or drug may be seized.

33. On a conviction under Section 31 or 32, the liquor or drug, together with the vessel containing it, may be confiscated, and the fines realised may be awarded to the informer or the seizing officer.

34. Things seized under Section 32 may be detained until the conviction or acquittal of the person in whose possession they were found, and shall be dealt with accordingly.

35. Foregoing Sections not to apply to articles sold or supplied for medicinal purposes.

36. Act not to interfere with the jurisdiction of Courts Martial or Commanding Officers under Act XXIX. of 1861, or with the provisions of any Statute for punishing mutiny and desertion. But Article 84 of Act XXIX. of 1861 to cease to have effect on the promulgation of Rules under Section 17 of this Act.

37. Repealed.

38. Act to extend only to the Presidency of Bengal.

39. Act may be extended by the Governor-General in Council to any place under his immediate administration, and to any place not in British India in which troops are cantoned.

40. Act may be extended to Madras, Bombay, and the Punjab by the Governments of those places respectively.

41. Act may be extended by the Lieutenant-Governors of Bengal and the North-Western Provinces to territories under their administration not within the Presidency of Bengal.

42. Orders issued under Section 39, 40, or 41 to be published in the Gazette.

43. Governor-General in Council to direct to what authorities commitment shall be made, and appeals preferred, if any Cantonment to which this Act shall be extended be situated in any district in which there is no person exercising the powers of a Court of Session.

44. If a Court of Small Causes be established under this Act in a place not subject to the General Regulations or out of British India, Governor-General in Council to declare what authority shall exercise the powers vested in the Sudder Court by Act XLII. of 1860.

45. If the Regulation Act (XVI. of 1864) be extended to a Cantonment out of British India, Governor-General in Council to declare the authorities to be deemed the Deputy Registrar, Registrar, and Registrar General.

46. Regulations and Acts in force in Madras, Bombay, and the Punjab, inconsistent with this Act, to cease to have effect in any Cantonment within those territories from the date of the Cantonment Magistrate beginning to exercise jurisdiction.

An Act to make provision for the Administration of Military Cantonments.

Preamble.

Whereas it is expedient to make provision for regulating the administration of Civil and Criminal Justice, and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments, and for laying down local Rules and Regulations to be enforced within such limits; It is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India" denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, chap. 106, entitled "*An Act for the better Government of India,*" except the Settlements of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

The words "local Government" denote the person or persons authorized by law to administer Executive Government in any part of British India.

"Section."

The word "Section" denotes a Section of this Act.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

II. *Repealed by the Repealing Act XIV.*, 1870.

Jurisdiction of a Cantonment Magistrate.

III. When any person shall be invested by the local Government under the provisions of Section 23 of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the District or place in which such Cantonment is situate, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Cantonment Magistrate to be deemed in charge of a Division of a District.

IV. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning and for the purposes of the Code of Criminal Procedure.

Assistant Cantonment Magistrates.

V. When any person shall be invested by the local Government under the provisions of Section 23 of the Code of Criminal Procedure, with the powers of a subordinate Magistrate of the 1st or 2nd Class within the limits of any Military Cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the Rules laid down for subordinate Magistrates in the said Code.

Small Cause Courts may be established in Cantonments.

VI. The local Government may within the limits of any Military Cantonment establish a Court of Small Causes for the trial of suits of the nature described in Section 3 of Act XLII. of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The local Government shall from time to time declare the pecuniary limit of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed 500 Rupees.

Act XLII. of 1860 to apply to all such Courts.

VII. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XLII. of 1860, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are

VIII. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section 4, the jurisdiction exercised in such Cantonment by any Officer under Act III. of 1859 *(for conferring Civil Jurisdiction in certain cases upon Cantonment Joint-Magistrates, and for constituting those Officers Regis-*

appointed to be Small Cause Court Judges.

trars of Deeds) shall cease and determine, and so much of any Act as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall cease to have effect within the limits of such Cantonment.

Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge in suits for an amount not exceeding 50 Rupees.

IX. The local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court which is established under Section 6: Provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding 50 Rupees.

Cantonment may be declared a Sub-District under Act XVI. of 1864.

X. Any Military Cantonment may be declared by the local Government to be a Sub-District, for the purposes of Act XVI. of 1864 *(to provide for the Registration of Assurances.)* The Cantonment Magistrate of any Cantonment so declared shall be the Deputy Registrar thereof.

Act V. of 1861 applicable to Police employed in Military Cantonments.

XI. The Police Force employed in any Military Cantonment shall be deemed to be part of the General Police Force under the local Government in whose territories such Cantonment is situate, within the meaning of Section 2, Act V. of 1861 *(for the Regulation of Police,)* and all the provisions of the said Act shall be applicable to such Force. The administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent, subject to the general control and direction of the Commanding Officer of such Cantonment.

Administration of Police within Cantonments.

Extension of Section 34, Act V. of 1861, to Military Cantonments.

XII. The local Government may extend Section 34 of the said Act V. of 1861 to any Military Cantonment situate in the Territories under such Government.

Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

XIII. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the Chief Police Officer in the Cantonment for service or execution through the Cantonment Police, and it shall be the duty of the said Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Local Government may extend Act XX. of 1856 to any Military Cantonment.

XIV. It shall be lawful for the local Government to extend the provisions of Act XX. of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazars, in the Presidency of Fort William in Bengal),* to any Military Cantonment to which a Cantonment Magistrate may be appointed, and the Cantonment Magistrate of any Military Cantonment to which the said Act shall be so extended may exercise all the powers vested in a Magistrate by that Act, subject only to the control of the Magistrate of the District and the local Government. If there be no

Cantonment Magistrate, the Magistrate of the District shall carry out the provisions of the said Act when so extended as aforesaid.

And may order division of Cantonment, &c.

XV. It shall be lawful for the local Government to order that any Military Cantonment to which the provisions of the said Act XX. of 1856 shall be extended, be divided into any number of Cantonment divisions, and to determine the nature of the tax to be levied in each such division according to Section 10 of the said Act.

And may make rules for regulating expenditure of funds raised.

XVI. The local Government may prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the Rules and Regulations made under Section 17 of this Act, in addition to, or in lieu of, the purposes described in Section 36 of the said Act XX. of 1856.

And may make general or special Regulations to provide for certain matters hereinafter mentioned.

XVII. The local Government shall have power to make Rules and Regulations, not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and from time to time to repeal, or alter, such Rules and Regulations. The Rules and Regulations made under this Section may be general for all Military Cantonments in the territories under the local Government making the same, or special for any one or more of such Cantonments, according as the local Government shall direct.

Regulations to be confirmed by Governor-General in Council.

XVIII. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor-General of India in Council. A copy of every such Rule and Regulation when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the Office of the Cantonment Magistrate, or in such other place as the local Government or the Commanding Officer may direct.

For what matters Regulations may provide.

XIX. The Rules and Regulations made under Section 17 may provide—

1st.—For regulating, in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2nd.—For maintaining proper registers of immoveable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3rd.—For regulating the manner in which houses within the limits of the Cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4th.—For regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public

improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5th.—For the definition and prohibition of public nuisances.

6th.—For the maintenance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy, and drainage; for the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited; of slaughter-houses, public markets, burial and burning grounds, and all offensive or dangerous trades and occupations.

7th.—For inspecting and controlling houses of ill-fame, and preventing the spread of venereal disease.

8th.—For the supervision and regulation of public wells, tanks, springs, or other sources from which water is, or may be, made available for public use.

9th.—For the execution and promotion of works of public utility and convenience.

10th.—For the registration of deaths, and for making and recording observations and facts important for the public health and interests.

11th.—For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section 17, and for declaring what persons shall make the preliminary inquiry into, or take cognizance of, any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted: Provided that no penalty so imposed shall exceed a fine of 50 Rupees, or imprisonment for eight days, with or without labour.

Trial of breaches of Regulations.

XX. Breaches of any Rule or Regulation made under Section 17, shall be triable by the Cantonment Magistrate when there is such an Officer; but the local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the District shall have no control over the Cantonment Magistrate, or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

Amount of fine imposed how to be levied.

XXI. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section 17, the amount may, in case of non-payment, be levied by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

Imprisonment in case of amount not being levied.

XXII. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labour for any term not exceeding one month.

Place of such imprisonment.

XXIII. The imprisonment under Section 19, or Section 22, may be, if without labour, in the Civil Jail; and if with labour, in the Criminal Jail of the District.

Prosecutions, &c., under other Regula-

XXIV. Nothing in this Act, nor in any Rule or Regulation made under Section 17, shall prevent any person from being prosecuted under any other Regulation or Act

tions, &c., not barred by this Act.

for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

For protection of the health of the troops, Rules and Regulations made under 7th Clause of Section 19, may be extended beyond limits of Cantonments.

XXV. Whenever it shall appear necessary for the protection of the health of the troops in any Military Cantonment, it shall be lawful for the Governor-General of India in Council to extend, to any place outside the limits of such Military Cantonment, and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section 19, and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force.

How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.

XXVI. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor-General of India in Council to provide, in the manner described in Clause 11 of Section 19, for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

XXVII. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section 17 or Section 25.

Effect of Rules &c., made under Section 17 of this Act in respect of Regulation, &c., previously in force.

XXVIII. Whenever in any Military Cantonment Rules and Regulations have been made under Section 17, so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment, which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under the said Section 17, shall cease to have any effect: Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the Articles of War.

Proviso.

Penalty for the unauthorized sale of spirits, &c., to certain persons in Cantonments.

XXIX. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the local Government, any person not amenable to the Articles of War, or any Sutler, or Camp-Follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell, or supply, any spirituous liquor, wine, or intoxicating drug to, or for the use of, any European Soldier, or to or for the use of any European or Eurasian being a Camp-Follower or a Soldier's wife, without a written license from the Officer Commanding or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or

supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding 100 Rupees, or in the discretion of the Magistrate to imprisonment, with or without hard labour, for any period not exceeding three months, or, in lieu of such fine or imprisonment, to the punishment of whipping, as prescribed for offences under Section 2 of Act VI. of 1864 *(to authorize the punishment of whipping in certain cases)*, subject to all the provisions of that Act.

Spirits, &c., to be confiscated in certain cases.

XXX. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty on certain persons for having in their possession within Cantonments more than a certain quantity of spirits without a permit.

XXXI. If any Camp-Follower or Military Pensioner, or the wife or the widow of any Soldier, Camp-Follower, or Military Pensioner shall, within such Cantonment or limits, remove, convey, or have in his or her possession, any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding 50 Rupees, and for any subsequent offence to a fine not exceeding 100 Rupees, or to imprisonment with or without hard labour, for any term not exceeding three calendar months: Provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Arrest of persons offending against Section 30 or 31 and seizure of the liquor &c., in their possession.

XXXII. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section 30 or Section 31 of this Act, any Police Officer may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate, or other officer having jurisdiction to punish the offender.

Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction, or which may be in possession of the party convicted.

XXXIII. In case of a conviction for any offence under Section 30 or Section 31 of this Act, the Cantonment Magistrate, or other Officer, may adjudge any liquor, wine, or intoxicating drug in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing, or concealing the same or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or

parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

XXXIV. Anything seized under Section 32 in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. If the person shall be acquitted, anything so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

How to be then disposed of.

Saving of all articles sold or supplied for medicinal purposes.

XXXV. The foregoing Sections shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

Act not to affect jurisdiction of Courts Martial, &c.

XXXVI. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments or of Regiments, Corps, or Detachments under Act XXIX. of 1861 *(to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army)*, or under Act V. of 1863 *(to amend Act XXIX. of* 1861*)*, or with the provisions of any Statute for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty in the East Indies, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences: Provided that, when a Cantonment Magistrate or other Officer, not being the Commanding Officer, shall have been vested by the local Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section 17, it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act XXIX. of 1861 in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section 17, and penalties shall have been laid down for their infringement. The said Rules and Regulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX. of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations, shall cease from that time to have any effect in such Cantonment.

Proviso.

XXXVII. *Repealed by the Repealing Act XIV.*, 1870.

Place of operation of this Act.

XXXVIII. This Act shall, save as hereinafter is provided, extend only to the Presidency of Fort William in Bengal.

This Act may be extended by order of the Governor-General in Council to certain other places.

XXXIX. The provisions of this Act may be extended, by order of the Governor-General of India in Council, to any place under the immediate administration of the Government of India, and to any place in India, but not in British India, in which British Troops are cantoned.

To what places this Act may be extended by the Governments of Madras, Bombay, and the Punjab.

XL. The provisions of this Act may be extended, by order of the Governor of Madras in Council, or by order of the Governor of Bombay in Council, and by order of the Lieutenant-Governor of the Punjab, to any part of the territories subject to their respective Governments.

To what places this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

XLI. The provisions of this Act may be extended, by order of the Lieutenant-Governor of Bengal, or by order of the Lieutenant-Governor of the North-Western Provinces, to any part of the territories under their respective Governments not within the Presidency of Fort William in Bengal.

Publication of orders extending the operation of this Act.

XLII. Every order issued under Sections 39, 40, or 41 shall be published in the Official Gazette.

Authority to which commitments shall be made and appeals preferred, if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.

XLIII. If, in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, any person be invested with the powers of a Cantonment Magistrate within the limits of any Cantonment situated in any district or place in which there is no person exercising the powers of a Court of Session, the Governor-General of India in Council may direct to what authority the commitments shall be made and by what authority the appeals from the sentences and orders passed by such Cantonment Magistrate shall be heard and determined, and such commitments and appeals shall be heard and determined by such authority in the same manner as if the commitments had been made, or the sentences or orders appealed from had been passed, by a Magistrate within the jurisdiction of a Court of Session. The Governor-General of India in Council may also direct by what authority appeals from the sentences and orders passed in cases committed by such Cantonment Magistrate, shall be heard and determined; and such appeals shall be heard and determined by such last mentioned authority in like manner as if the sentences and orders appealed from had been passed by a Court of Session.

In certain cases powers vested in the Sudder Court under Act XLII. of 1860 shall be exercised by such authority as the Governor-General in Council shall declare.

XLIV. If a Court of Small Causes shall be established under Section 6, in any Military Cantonment in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, the Governor-General of India in Council shall declare what authority shall exercise the powers vested in the Sudder Court by the provisions of the said Act XLII. of 1860.

In certain cases for purposes of registration under Act XVI. of 1864, the Government to declare what authorities to be deemed District Registrar and Registrar-General.

XLV. If any Military Cantonment in any part of India not subject to the British Government shall be declared by the Governor-General of India in Council to be a Sub-District for the purposes of Registration under Act XVI. of 1864, the Governor-General of India in Council shall declare what authorities shall be deemed to be the District Registrar and the Registrar-General, respectively, with reference to such Military Cantonment and the Deputy Registrar thereof.

Regulation and Act inconsistent with this Act, when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab.

XLVI. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any Cantonment in the Territories subject to the Government of Madras, or to the Government of Bombay, or to the Lieutenant-Governor of the Punjab, so much of the Regulations and Acts for the time being in force in such part of the said Territories as is in any way inconsistent with or repugnant to any of the provisions of this Act shall cease to have effect in such Cantonment.

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

ACT No. XXIV. OF 1864.*

N. W. Provinces.

1. Rules made by the Lieutenant-Governor of the N. W. Provinces relative to the jurisdiction and procedure of the Revenue Officers and for the collection of Revenue, to be deemed valid from date of issue.

2. Rules made for the administration of Civil Justice in those Districts, and thereafter extended to Kumaon and Gurhwal, to be deemed valid from date of issue; and so much of those Rules as relate to the establishment of Courts, and for the trial of suits and appeals, to continue in force after this Act comes into operation.

3. Decisions and orders passed under such Rules not to be questioned on the ground of having been passed before this Act came into operation.

4. Proceedings in Civil suits to be regulated by the Code of Civil Procedure.

5. Suit to be instituted in Court of lowest competent grade.

6. Commissioner or Deputy Commissioner may withdraw any suit from a subordinate Court, and try it himself or refer it to another competent subordinate Court.

7. Suits for immoveable property may be brought in any competent Court within whose jurisdiction any part of the property lies; such Court to obtain the authority of the Commissioner or Deputy Commissioner to proceed with the suit.

8. Periods of appeal to be reckoned exclusive of the day of pronouncing judgment and of the time necessary for obtaining a copy of the decree.

9. The Limitation Act (XIV. of 1859) extended to the Districts of Jhansi, Jaloun, and Lullutpore, and to the Provinces of Kumaon and Gurhwal.

10—15. Repealed.

An Act relating to the Administration of certain Districts under the Government of the Lieutenant-Governor of the North-Western Provinces.

Preamble.

Whereas certain Rules for the administration of Civil Justice, and for the superintendence of the settlement and of the realization of the Public Revenue, and of matters relating to rent in the Districts of Jhansi, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came into operation on the 28th day of January and the 7th day of February, 1862; and whereas the saidRules, so far as they relate to the administration of Civil Justice, were afterwards extended by an order of the Lieutenant-Governor of the North-Western Provinces to the Provinces of Kumaon and Gurhwal; and whereas it is expedient to prevent the validity of decisions, orders, and proceedings passed or held under the said Rules being questioned only by reason that the said Rules were not made in accordance with the provisions of the Indian Councils' Act, 1861; and whereas it is expedient to make provision for the administration of the Districts and provinces aforesaid, and also of a tract of country in Dehra Dhoon in the North-Western Porvinces known as Jounsar Bawur; It is enacted as follows:

* See Act XVIII., 1867, as to the Jhansi Division.

Rules relating to jurisdiction and procedure of Revenue Officers, &c., to be deemed valid from date of issue.

I. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the Revenue Officers, and for the superintendence of the settlement and of the realization of the Public Revenue, and of matters relating to rent, within the said Districts of Jhansi, Jaloun, and Lullutpore, shall be deemed valid for all purposes from the date on which such Rules were issued.

Rules relating to administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act, and in part after such period.

II. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of Civil Justice within the said Districts, and thereafter extended to the Provinces of Kumaon and Gurhwal as aforesaid, shall be deemed valid for all purposes from the date on which they were issued until this Act shall come into operation. So much of the said Rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioners, Deputy Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehsildars, together with so much of the said Rules as relates to the periods of appeal from decisions and orders made by such Courts, shall continue to be in force after this Act shall have come into operation.

Validity given to all decisions, &c., before the coming into operation of this Act.

III. No decision, order, or proceeding of any Court or Officer under any of the said Rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order or decision having been passed, or of such proceeding having been held, before the date fixed for this Act to come into operation.

Proceedings in Civil suits how to be regulated.

IV. Except as in this Act is otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

In what Court suits shall be instituted

V. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Power of Commissioner as to suits instituted in any subordinate Court.

VI. It shall be lawful for the Commissioner or for the Deputy Commissioner of a District to withdraw any suit instituted in any Court subordinate to the Court of such Commissioner or Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

Trial of suits for immoveable property situate within the jurisdictoin of different Courts.

VII. If the suit be for land or other immoveable property situate within the local limits of the jurisdiction of different Courts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immoveable property in suit is situate; but in such case the Court in which the suit is brought shall apply to the Deputy Commissioner of the District, if the suit is brought in any Court subordinate to the Deputy Commissioner, or to the Commissioner, if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

Periods of appeal how to be reckoned.

VIII. The periods of regular and special appeal prescribed in the Rules, which by Section 2 of this Act are to continue in force after this Act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Act XIV. of 1859 extended to certain Districts and Provinces.

IX. Act XIV. of 1859 *(to provide for the limitation of suits)* is hereby extended to the said Districts of Jhansi, Jaloun, and Lullutpore, and to the said Provinces of Kumaon and Gurhwal.

X.—XV. *Repealed by Act XIV.*, 1870, *F. C.*

ACT No. XXVI. OF 1864.

Presidency Towns.

1. Interpretation.
2. Jurisdiction of Courts held under Act IX. of 1850 to extend to suits for sums not exceeding 1,000 Rupees.
3. On agreement of parties such Courts may try actions for sums exceeding 1,000 Rupees.
4. Powers and provisions of Act VII. of 1847 (regulating distresses for small rents in Calcutta) extended to 1,000 Rupees, and such extended powers given to the Judge of the Calcutta Court of Small Causes.
5. Provisions of Section 91 of Act IX. of 1850 extended to tenements, the yearly value or rental of which does not exceed 1,000 Rupees.
6. Provisions of Act IX. of 1850, and the Rules made in pursuance thereof, to extend to cases under this Act.
7. In cases exceeding 500 Rupees, Judges to reserve for the opinion of the High Court questions of law or equity, or as to the admission or rejection of evidence, on which they entertain doubts, or which either party may request to be so reserved: and may pass judgment contingent upon such opinion.
8. In such cases judgment-debtor to give security for costs of reference and amount of judgment. High Court may order a new trial, or direct judgment to be entered up for either party. Orders of High Court to be final.
9. If after the passing of this Act an action be brought in the High Court, for a cause cognizable in the Small Cause Court, and less than 1,000 Rupees be recovered if the action be founded on contract, or less than 300 Rupees if on wrong, no costs to be allowed; and if judgment be against plaintiff, defendant entitled to costs of Attorney; unless in either case the Judge certify the action to be a fit one to be brought in the High Court.
10. In an action in the High Court against an Officer of a Small Cause Court, no costs to be awarded unless plaintiff recover more than 1,000 Rupees, or Judge certify action as above.
In suits under this Act, fees in the Schedule to be paid, besides a sum of two annas on the Rupee up to 500 Rupees and one anna on the Rupee above that amount.
12. Local Government, with sanction of Governor-General in Council, to appoint as many Judges as may be necessary.
13. In cases under this Act, Judges of Small Cause Court may award to an Attorney for fees and costs a sum not exceeding 51 Rupees and to a Barrister 85 Rupees.
14. Barrister Judge appointed under Section 8 of Act IX. of 1850 to be the First Judge, and to arrange the distribution of suits and general business amongst the various Judges.
15 Local Government may, with sanction, declare the Code of Civil Procedure or any part thereof (except the right of appeal and review) applicable to Small Cause Courts.
16. Act to be read as part of Act IX. of 1850.

An Act to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.

Preamble.

Whereas it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX. of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)* and to increase the number of Judges of the said Courts; It is enacted as follows:

Interpretation.

I. The words "local Government" and "High Court," as used in this Act, shall bear respectively the same meaning as the words "Governor in Council" and "Supreme Court," as used in the said Act IX. of 1850.

Courts held under Act IX. of 1850 may

II. The jurisdiction of the Courts held or to be held under the said Act IX. of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of

take cognizance of suits for sums not exceeding Rs. 1,000.

500 Rupees, but not exceeding the sum of 1,000 Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section 25 of the same Act), provided that the cause of action shall have arisen, or the defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

Such Courts may take cognizance of suits for sums exceeding Rs. 1,000 if the parties consent.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies, and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section 25 of Act IX. of 1850), in which the debt or damage claimed or value of the property in dispute, whether on balance of account or otherwise, shall exceed the sum of 1,000 Rupees, then and in such case the said Court shall have jurisdiction to try such action.

Powers under Act VII. of 1847 extended to recovery of arrears of rent not exceeding Rs. 1,000, and the Calcutta Court of Small Causes to exercise such powers.

IV. The powers and provisions of Act VII. of 1847 *to (regulate distresses for small rents in Calcutta)* shall be extended to the recovery of all arrears of rent not exceeding 1,000 Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII. of 1847: and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850 instead of the Commissioners of the Court therein mentioned, and the amount of 1,000 Rupees instead of 100 Rupees, and the forms contained in the Schedule annexed to the said Act VII. of 1847 shall be altered accordingly, and shall refer to Act IX. of 1850 and to this Act, instead of to Act VII. of 1847.

Provision of Section 91, Act IX. of 1850, extended to tenements not exceeding in value Rs. 1,000.

V. The powers and provisions of Section 91 of Act IX. of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of 1,000 Rupees by the year, and the said Section 91 of Act IX. of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Powers of Act IX. of 1850, and all rules, &c., made in pursuance thereof, extended to demands under this Act.

VI. The several powers and provisions of the said Act IX. of 1850, and all rules, orders, and regulations which have been or may be made in pursuance of the said Act, shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of 500 Rupees, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

In what cases questions to be reserved for

VII. In any cause of an amount exceeding 500 Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any ques-

the opinion of the High Court.

tion as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

Security to be given in certain cases when question is reserved for the opinion of the High Court.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall, unless he be willing to submit to such judgment, forthwith give security, to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided, nevertheless, that such security, so far as regards the amount of the judgment, shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Section Court under this shall be final.

Costs arising from reserving the question be at the discretion of the High Court.

No costs in cases brought in the High Court when verdict is for less than a certain amount.

IX. If any action shall, after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section 100 of Act IX. of 1850, for which a summons might have been taken out from a Court held under the said Act IX. of 1850 or under this Act, and in which such Court would have had jurisdiction, and if a verdict shall be found for the plaintiff for a sum less than 1,000 Rupees if the said action is founded on contract, or less than 300 Rupees if it is founded on wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled to his costs as between attorney and client, unless in either case the Judge who shall try the case shall certify that, by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Causes, the action was fit to be brought in the High Court.

No costs to be allowed in suit in High Court against Officers of Court held under Act IX. of 1850, if verdict for no more than 1,000 Rupees, unless Judge shall certify.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court held under Act IX. of 1850 or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of 1,000 Rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court that the action was fit to be brought in the High Court.

Fees payable in the Courts of Small Causes in suits under this Act.

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay, respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed 500 Rupees, and one anna in the Rupee, so far as such amount exceeds 500 Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section 19 of Act IX. of 1850 are paid over.

Local Government may, with sanction, appoint as many Judges as may be necessary.

XII. Whereas, by Section 8 of the said Act IX. of 1850, provision is made for the appointment of so many persons as may be necessary, not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted, that it shall be lawful for the local Government, with the previous sanction of the Governor-General of India in Council, to appoint as many persons as may be necessary to be Judges of the said Courts respectively.

Fees payable to Barristers, &c., in suits tried under this Act.

XIII. The fees to be taken by Barristers-at-Law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—An Attorney shall be entitled to have or recover a sum not exceeding 51 Rupees for his fees and costs, and in no case shall any fee exceeding 85 Rupees be allowed for employing a Barrister as Counsel in the cause. The expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

One of the Judges appointed under Act IX. of 1850 to be styled First Judge; and to distribute business among the Judges.

XIV. Of the Judges appointed under Section 8 of the said Act IX. of 1850 the one who is a Barrister-at Law or Advocate of one of the High Courts of India or of the Court of Session of Scotland shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof: and he may vary such arrangements from time to time.

Code of Civil Procedure may be extended to Small Cause Courts.

XV. The local Government may, with the sanction of the Governor-General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX. of 1850 or under this Act; and the procedure prescribed in the said Code, or the part or parts thereof so declared to be applicable, shall thereupon be the procedure followed in such Court: Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

This Act to be read as part of Act IX. of 1850.

XVI. This Act and the said Act IX. of 1850 shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

SCHEDULE OF FEES.

Sums not above	Every Summons or Subpœna.		Warrant.	
Rs.	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12	8	0
900	3	0	9	0
1,000	3	4	10	0

ACT No. XXVIII. OF 1864.

Punjab.

An Act to provide for the extension of Act XXI. of 1856 *(to consolidate and amend the law relating to the Akbaree Revenue in the Presidency of Fort William in Bengal,) to the Provinces under the control of the Lieutenant-Governor of the Punjab.*

Preamble.

Whereas it is expedient to empower the Governor-General of India in Council to extend the provisions of Act XXI. of 1856 *(to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)*, and of Act XXIII. of 1860, *(to amend Act XXI. of* 1856), to any Province or place under the control of the Lieutenant-Governor of the Punjab; It is enacted as follows:

Provisions of Act XXI. of 1856, *and of Act XXIII. of* 1860, *may be extended to the Punjab.*

I. It shall be lawful for the Governor-General of India in Council, by notification in the *Gazette of India*, to extend all or any of the provisions of the said Act XXI. of 1856, relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and of the said Act XXIII. of 1860, to any of the Provinces or any part or parts thereof under the control of the Lieutenant-Governor of the Punjab.

Powers under said Acts in what Courts and Officers to be vested.

II. The powers to be exercised under any of the provisions of the said Acts shall be vested in such Courts and Officers as the said Lieutenant-Governor may, with the sanction of the Governor-General in Council, appoint for the purpose.

III. *Repealed by the Repealing Act XIV.*, 1870.

ACT No. I. OF 1865.

Non-Regulation Provinces.

1. Governor-General in Council may extend to any Non-Regulation Province under his administration any Act or Regulation, or portion thereof, now in force in any Regulation Province.
2. Any Act or Regulation, or part thereof, in force in any Regulation Province, may be extended by the Lieutenant-Governor of the N. W. Provinces to any Non-Regulation Province under his government, and by the Lieutenant-Governor of the Punjab to the territories under his government.
3. On any such extension, the Governor-General in Council or Lieutenant-Governor may make all requisite orders for carrying such provisions into effect.
4. Rules inconsistent with enactments so extended, to cease to have effect.
5. Act to be called "The Acts and Regulations, Extension Act, 1865."

An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.

Preamble.

Whereas it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab, to extend to Non-Regulation Provinces under the immediate administration of the Government of India or under the Governments of the Lieutenant-Governors of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:

Governor-General in Council may extend to certain Non-Regulation Provinces certain Regulations and Acts.

I. From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces certain Regulations and Acts.

II. From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the Territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories, respectively, the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act, in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

III. Whenever the operation of any Act or Regulation, or of any portion of any Act or Regulation, shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension, may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of Rules inconsistent with this Act.

IV. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with, or repugnant to, the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

V. This Act shall be called "The Acts and Regulations' Extension Act, 1865."

ACT No. III. OF 1865.

General.

1. Act to be cited as "The Carriers' Act, 1865."
2. Interpretation.
3. Carrier not liable for loss of, or damage to, property exceeding 100 Rupees, and of the description mentioned in the Schedule, unless the value and description be given at the time of delivery.
4. For the risk of carrying such property, Carrier entitled to charge any higher rate of which notice shall have been exhibited by him at his place of business.
5. In case of loss of, or damage to, any such property after payment of such higher rate of charge, owner entitled also to recover money paid for such risk.
6. Liability of Carrier for other property not to be affected by any notice; but a Carrier other than the owner of a rail or tram-road under Act XXII. of 1865 may by special contract limit his liability in respect of any such property.
7. Owner of rail or tram-road liable for property not of the description mentioned in the Schedule, when loss or damage is caused by negligence or a criminal act.
8. Carrier always liable for property lost or damaged from negligence or a criminal act.
9. In suits against Carriers, owner of property lost or damaged not required to prove negligence or a criminal act.
10. Act not to affect the provisions of Sections 9, 10, and 11 of the Railway Act XVIII. of 1854.

An Act relating to the rights and liabilities of Common Carriers.

Preamble.

Whereas it is expedient not only to enable Common Carriers to limit their liability for loss of, or damage to, property delivered to them to be carried, but also to declare their liability for loss of, or damage to, such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:

Short Title.

I. This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above Rs. 100 in value, unless delivered as such.

III. No Common Carrier shall be liable for the loss of, or damage to, property delivered to him to be carried, exceeding in value 100 Rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried or some person duly authorized in that behalf shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such, payment may be required at rates fixed by the Carrier.

IV. Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value 100 Rupees and of the description aforesaid at such rate of charge as he may fix: Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

Proviso.

Person entitled to recover as to property

V. In case of the loss of, or damage to, property exceeding in value 100 Rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value

lost or damaged may also recover any money paid for its carriage.

and description thereof shall have been declared, and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

VI. The liability of any Common Carrier for the loss of, or damage to, any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tram-road constructed under the provisions of Act XXII. of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid, or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Carriers, with certain exceptions, may limit liability by special contract.

Liability of owner of rail-road or tram-road constructed under Act XXII. of 1863, not limited by special contract.

VII. The liability of the owner of any rail-road or tram-road constructed under the provisions of the said Act XXII. of 1863, for the loss of, or damage to, any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such rail-road or tram-road shall be liable for the loss of, or damage to, property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part, or on that of his agents or servants.

In what case owner of rail-road or tram-road shall answer for damage or loss.

Common Carrier liable for loss or damage caused by the neglect or fraud of himself or his agent.

VIII. Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of, or damage to, any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier, or any of his agents or servants.

Plaintiffs, in suits against Common Carriers for loss, damage, or non-delivery, not required to prove any negligence or criminal act.

IX. In any suit brought against a Common Carrier for the loss or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Saving of provisions of Sections 9, 10, and 11 of Act XVIII. of 1854.

X. Nothing in this Act shall affect the provisions contained in Section 9, 10, and 11 of Act XVIII. of 1854 *(relating to Railways in India)*.

SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hoondies.
Currency Notes of the Government of India, or Notes of any Banks, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints, and Works of Art.

Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

ACT No. V. OF 1865.

General.

PRELIMINARY.

1. Act may be cited as "The Indian Marriage Act, 1865."
2. Act to extend to territories vested in Her Majesty by 21 and 22 Vict., c. 106, and to come into operation on 1st May, 1865.
3. Act XXV. of 1864 repealed.
4. Interpretation.

PART I.

AS TO THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

5. After commencement of Act, no marriage between Christians, or where one of the parties is a Christian, to be solemnized, except in accordance with the next Section.
6. Marriages may be solemnized,—
(1.) By a person episcopally ordained, according to the rites of the Church of which he is a Minister.
(2.) By a Clergyman of the Church of Scotland according to the rites of that Church.
(3.) By or in the presence of a Marriage Registrar under 14 and 15 Vict., c. 99, or Act V. of 1852.
(4.) By any Minister licensed under this Act to solemnize marriages.
(5.) By persons licensed under Part V. to grant Certificates of Marriage between Native Christians.
7. Declaration and Certificate required by the 58th Geo. III., c. 84, and Act XXIV. of 1860, no longer required.
8. Governor-General in Council, Governors, and Lieutenant-Governors, to grant licenses to Ministers of Religion to solemnize marriages within their respective territories.
9. Marriages solemnized otherwise than in accordance with Sections 5 and 6 to be null and void.
10. Marriages solemnized prior to commencement of Act by persons not specially ordained, or who have not received express authority to solemnize such marriages, if not otherwise invalid, to be deemed valid.

PART II.

AS TO THE MODE OF SOLEMNIZING MARRIAGES UNDER THIS ACT.

11. In the case of a marriage solemnized by a person falling under Clause 1 of Section 6, one of the parties to give notice in Form A of the names and professions of the parties, and the time and place of the intended marriage. In places where there is a Church, Clergymen of the Church of England not to solemnize a marriage in any private dwelling, without a special license from the Bishop or Commissary.
12. Such notice to be exhibited in the place of public worship. If the Minister receiving the notice is not entitled to officiate in such place of worship, he may either return the notice or deliver it to a person entitled so to officiate.
13. If marriage is to be solemnized in a private dwelling, notice to be forwarded to the Marriage Registrar of the District for the purpose of being affixed in his Office.
14. If one of the parties (not being a widow or widower) be a minor, notice to be sent to the Marriage Registrar within 24 hours of the receipt thereof.
15. Registrar to affix such notice in his Office.
16. If more than one Registrar in a District, notice to be sent to the Senior, who shall forward copies to the others.
17. If one of the parties make the declaration hereinafter required, and if no lawful impediment be shown, Minister to issue Certificate of notice and declaration.
18. Certificate not to issue till after 14 days, if one of the parties be a minor.
19. Before issue of Certificate, one of the parties to make a solemn declaration that there is no impediment to the marriage, and in the case of minority, that lawful consent has been obtained.
20. Consent of the father, guardian, or mother necessary in the case of a minor.
21. Any such person may by notice prohibit the issue of a Certificate.
22. Minister not to issue notice, and not to solemnize marriage, until satisfied that the person prohibiting was not lawfully authorized, or that the prohibition is withdrawn.
23. Notice and Certificate to be translated, if necessary, in the case of Native Christians.
24. Certificate to be in Form B.
25. Marriage to be solemnized in the presence of at least two witnesses.
26. If marriage be not solemnized within 2 months from date of Certificate, Certificate to be void; no person to solemnize such marriage until new notice and Certificate be issued.
27. In support of marriages solemnized under Part I, the dwelling of the parties, the consent of persons, and the issue of notice and Certificates, need not be proved.

PART III.

AS TO THE TIME FOR SOLEMNIZING MARRIAGES.

28. Marriages to be solemnized between 6 A. M. and 7 P. M., and at any other hour under permission of a special license granted by the Anglican or Roman Catholic Bishop of the Diocese.

PART IV.

AS TO THE REGISTRATION OF MARRIAGES IN INDIA.

29. Marriages solemnized under this Act to be registered as hereinafter prescribed. Defect or omission in registration not to invalidate marriage.
30. Clergyman of the Church of England to register marriages in the Register of the Station or District in the Form C.
31. Quarterly returns in duplicate of the entries in such Register to be submitted to the Registrar of the Archdeaconry, who shall transmit one to the local Government.

32. Marriages solemnized by the Church of Rome to be registered by the person and in the form directed by the Roman Catholic Bishop of the Diocese, and quarterly returns of the entries in such Register to be forwarded to the local Government.

33. Clergymen of the Church of Scotland to register marriages in the Form C, and to forward returns to the Secretary to Government through the Senior Chaplain.

34. Marriages solemnized by episcopally ordained persons not Clergymen of the Churches of England or Rome, to be registered in a Register Book, to be kept in the Form D, and in a Certificate to be attached to the Register Book as a counterfoil.

35. Such entries to be signed by the person solemnizing and the parties married, and to be attested by two witnesses.

36. Certificate to be sent within one month to the Marriage Registrar of the District, for transmission, after keeping a copy, to the local Government. Certificates in the Book of the Registrar to be separately forwarded by him.

37. Copies of such Certificates to be entered by the Registrar in the order of their receipt, and to be properly numbered.

38. The number of the entry in the Book, and the signature or initials of the Registrar, to be added to the Certificate.

39. Person solemnizing marriages under Part V. to keep safely the Register Book; and when filled, to send it to the Registrar, for transmission to the local Government.

40. Certificates of Marriages, of which evidence may be desirable in England, to be transmitted quarterly to the Secretary of State, for delivery to the Registrar General of Marriages.

41. Erroneous entry may be corrected within one month, in the presence of the parties or of two witnesses, and a corrected Certificate to be transmitted to the Government.

42. Registers and Certificates to be open to inspection, and copies of entries to be given on payment of fees.

43. Fees received by a Registrar or Secretary to be accounted for to Government. Persons not Marriage Registrars may retain fees received by them.

44. Certified copies of entries and Certificates to be received as evidence of marriage, without further proof.

45. This Part not to apply to the Registers or Certificates of Marriages solemnized under 14 and 15 Vict., c. 40.

46. Registrar hereafter appointed under Act V. of 1852, to be Christian, and may be appointed by name, or as holding any office.

PART V.

As to the Marriage of Native Christians.

47. Local Government may issue licenses to Christian persons for granting Certificates of Marriage between Native Christians. Such license may at any time be revoked.

48. Certificates under preceding Section to be granted—

(1.) If the man be above 16, and the woman above 13 years of age.
(2.) If the man and woman are not within the prohibited degrees of consanguinity or affinity.
(3.) If neither party has a wife or husband living.
(4.) On persons making a solemn declaration before at least two witnesses.
(5.) If declaration be made between 6 A. M., and 7 P. M.

49. On fulfilment of conditions, and on payment of a fee of 4 annas, Certificate to be granted. Such Certificate to be conclusive evidence of the marriage.

50. Marriages under Section 48 to be good and valid.

51. Register Book to be kept by person granting Certificates under Section 49.

52. Such Book to be open to inspection, and certified copies of entries to be given on payment of prescribed fees.

53. This Part not to apply to marriages between Roman Catholics.

PART VI.

As to Penalties.

54. Person making a false oath or declaration, or signing a false notice or certificate, for the purpose of procuring any marriage, to be deemed guilty under Section 193 of the Penal Code.

55. Person forbidding the issue of a Certificate by a false representation of authority, to be deemed guilty under Section 205 of the Penal Code.

56. Person solemnizing marriages between Christians without having due authority, liable to imprisonment for 10 years and fine, or to penal servitude.

57. Person solemnizing marriages at unauthorized times, or without the presence of two witnesses, liable to imprisonment for 3 years and fine.

58. Preceding Section not to apply to marriages solemnized under special license.

59. Person solemnizing the marriage of a minor (not being a Native Christian under Part V.) before the expiration of 14 days from the date of notice, liable to imprisonment for 3 years and fine.

60. Registrar under Act V. of 1852 not conforming to that Act, or, in the case of a minor, issuing a Certificate prohibited under this Act, liable to imprisonment for 5 years and fine.

61. Person solemnizing a marriage under this Act, without conforming thereto, liable to imprisonment for 4 years and fine.

62. Unlicensed person granting a Certificate under Part V., liable to imprisonment for 5 years and fine.

63. Person destroying, or injuring, or entering a false entry in any Register Book, or extract therefrom, liable to 7 years' imprisonment and fine.

64. Trials under this Act to be held under the Criminal Procedure Code by a Court of Session; and in the case of a European British subject committed by a Justice of the Peace, by the High Court under its own procedure.

65. The Code of Criminal Procedure to apply to cases under this Act, but summons always to issue in the first instance, and offence to be bailable.

66. Offences under this Act committed in the Straits' Settlement, to be tried by the High Court thereof under its own procedure. Penalties to correspond as nearly as may be to the penalties prescribed in the Penal Code.

An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:

PRELIMINARY.

Short Title.

I. This Act may be cited as "The Indian Marriage Act, 1865."

Commencement and extent of Act.

II. This Act shall extend to all the Territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the 1st day of May, 1865.*

Act XXV. of 1864 repealed.

III. From and after the commencement of this Act, Act XXV. of 1864 *(to provide further for the solemnization of Marriages in India of persons professing the Christian Religion)* is repealed, except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation Clause.

IV. In this Act, unless there is something repugnant in the subject or context—

"Church of England."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by the law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Minor."

"Minor" means a person who has not completed the age of twenty-one years.

"Native Christians."

"Native Christian" includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

"Section."

"Section" means a Section of this Act.

"Month" and "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

PART I.

AS TO THE PERSONS BY WHOM MARRIAGE MAY BE SOLEMNIZED.

Marriage between Christians to be solemnized only under this Act.

V. From and after the commencement of this Act, no marriage between persons, one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

VI. Marriages may be solemnized in India—

1.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of which such person is a Minister.

* By Act XXII., 1866, this Act was extended, so far only as regards Christian British subjects of Her Majesty, to the Hyderabad Assigned Districts and the cantonments of Secunderabad, Trimungerry, and Aurungabad.

2.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of Scotland.

3.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vict., chap. 40, or of Act V. of 1852 *(for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty, intituled "an Act for Marriages in India")* of the Governor-General of India in Council.

4.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5.—By any person who, with respect to marriages between Native Christians, shall have received, under the provisions of Part V. of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

VII. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III., chap. 84, and Act XXIV. of 1860 *(for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

VIII. From and after the commencement of this Act, the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion to solemnize marriages within the Territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriage solemnized otherwise than according to this Act to be void.

IX. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of Sections 5 and 6 shall be null and void.

Marriages solemnized before 1st May, 1865, by certain persons to be deemed valid.

X. All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

PART II.

As to the Mode of Solemnizing Marriages under this Act.

Notice of intended marriage.

XI. In every case of intended marriage between persons, one or both of whom shall profess the Christian Religion otherwise than—

1.—Under the provisions of the said Statute 14 and 15 Vict., chap. 40, or of the said Act V. of 1852; or,

2.—By a Clergyman who has received episcopal ordination, according to the rites, rules, ceremonies, and customs of the Church to which he belongs; or,

3.—By a Clergyman of the Church of Scotland, according to the rites, rules, ceremonies, and customs of that Church; or,

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V. of this Act—

One of the persons intending marriage shall give notice in writing, according to the form contained in the Schedule A to this Act annexed, or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized: Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards: Provided, also, that at any place or station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Proviso.

XII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church, in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the same notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Publication of such notice.

XIII. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in Section 11, shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own office.

Notice of intended marriage in private dwelling.

XIV. When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under Section 12, shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Notice when one of the persons is a minor.

XV. The Marriage Registrar of the District, on receiving any such notice, shall affix the same to some conspicuous place in his own office.

Publication of such notice.

XVI. If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and

Appointment of Senior Marriage Registrar.

such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own office or Churches, as aforesaid.

Certificate of notice given and declaration made, to be issued.

XVII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made: Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Proviso.

In case of minority, certificate not to issue until 14 days after receipt of notice.

XVIII. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

XIX. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent of guardian when necessary.

XX. The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

XXI. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized, with his name and place of abode, and his or her position, with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

XXII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the

said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

XXIII. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under Section 17, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

XXIV. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

XXV. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void, if marriage be not solemnized within two months.

XXVI. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I. of this Act.

XXVII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I. of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

As to the Time for Solemnizing Marriages.

Hours between which marriages to be solemnized.

XXVIII. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the

Proviso.

evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided, also, that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning; when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

PART IV.

As to the Registration of Marriages in India.

Marriages, with certain exceptions, to be registered as herein prescribed.

XXIX. All marriages solemnized in India, from and after the commencement of this Act, between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vict., cap. 40, and the said Act V. of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Registration of marriages solemnized by Clergymen of the Church of England.

XXX. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriages shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly Returns to Archdeaconry.

XXXI. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject, or within the limits of which such Station or District shall be situated. Such quarterly Returns shall contain all the entries of marriages contained in the said Register from the 1st day of January to the 31st day of March, from the 1st day of April to the 30th day of June, from the 1st day of July to the 30th day of September, and from the 1st day of October to the 31st day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

XXXII. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the local Government, Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

XXXIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized in the form prescribed in Section 30 for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the local Government, Returns similar to those prescribed in Section 31 for Clergymen of the Church of England of all marriages solemnized by him.

What marriages to be entered in a Register Book and also in a certificate.

XXXIV. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be attested and signed.

XXXV. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

XXXVI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the District in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the local Government, together with the certificates from his own Marriage Register Book which he shall transmit under Section 12 of the said Statute 14 and 15 Vict., cap. 40, but distinct therefrom.

Copies of such certificates to be entered and numbered.

XXXVII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry to the certificate, and send same to Government.

XXXVIII. The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the local Government.

Custody and disposal of Register Book of marriages solemnized under Part V. of this Act.

XXXIX. The person solemnizing any such marriage as is provided for in Part V. of this Act, shall keep safely the said Register Book until the same shall be filled, or, if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the local Government, to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

XL. The Secretary to the local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him to the Secretary of State for India, for the purpose of being delivered to the Registrar-General of Births, Deaths, and Marriages.

Corrections of errors.

XLI. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made, and copies of certificates given.

XLII. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate, in his custody, and shall give a copy under his hand of any entry or entries in the same, on the payment

of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XLIII. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage, not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be evidence of marriage without further proof.

XLIV. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers, &c., of Marriages solemnized by Marriage Registrars.

XLV. Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vict., cap. 40, or the said Act V. of 1852.

Registrars to be Christians, and may be appointed ex-officio.

XLVI. Every Marriage Registrar hereafter appointed under the provisions of the said Act V. of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

As to the Marriage of Native Christians.

Licensing of persons to grant certificates of marriage between Native Christians.

XLVII. And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vict., cap. 40, and the said Act V. of 1852, are found not to be suitable, it is further enacted that it shall be lawful for the local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

XLVIII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V. of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act, if the following conditions be fulfilled, and not otherwise:—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years.

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity.

(3.) Neither of the persons intending to be married shall have a wife or husband still living.

(4.) In the presence of the person so licensed, and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ, do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect.

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled) licensed person to grant a certificate thereof.

XLIX. When, in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage, on the application of either of the parties to such marriage, on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received, in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Sec. 48 to be valid.

L. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of Section 48, shall be valid.

Register Book to be kept.

LI. A Register Book of all marriages of which certificates shall be granted under Section 48 shall be kept, by the person granting such certificates, in his own vernacular language. Such Register Book shall be kept according to such form as the local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom, duly authenticated, shall be deposited at such places and at such times as the local Government or Chief Commissioner shall direct.

Searches in the Register Book to be allowed.

LII. Every person licensed under this Act to grant certificates of marriage, and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V. not to apply to Roman Catholics.

LIII. This part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V. of the said Act XXV. of 1864.

PART VI.

As to Penalties.

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

LIV. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vict., cap. 40, or the said Act V. of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in Section 193 of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

LV. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in Section 205 of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for solemnizing a marriage without due authority.

LVI. Whoever, not being authorized under Section 6 to solemnize a marriage, shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or, in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or, if the offender be an European or American, to penal servitude according to the provisions of Act XXIV. of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.)*

Punishment for solemnizing a marriage except between 6 a. m. and 7 p. m., or without witnesses.

LVII. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

LVIII. The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in Section 28.

Punishment for solemnizing a marriage, when either party is a

LIX. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage when

minor, within a certain time after notice.

one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V. of this Act.

Punishment for issuing certificates, or solemnizing marriages, without publication of notice, &c.

LX. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V. of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act, without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him, shall solemnize such marriage; or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the post or otherwise, a copy of such notice of marriage to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof,—shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland, or Rome, solemnizing marriages without publication of notices, &c.

LXI. Whoever, being a person authorised under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies, and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II. of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act by any person authorized to forbid

the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same,—shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

LXII. Whoever, not being licensed to grant a certificate of marriage under Part V. of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

LXIII. Whoever shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert, or cause to be inserted, any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Jurisdiction to try persons for offences punishable under this Act.

LXIV. Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Code of Criminal Procedure applicable to offences under this Act.

LXV. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

LXVI. The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore, and Malacca, shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid, shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

SCHEDULE A—(*See Section* 11.)

NOTICE OF MARRIAGE.

To *the Reverend John Brown,* a Minister of the *Free Church of Scotland at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say):—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(*Signed*) *JAMES SMITH.*

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE B—(*See Section* 24.)

REGISTRAR'S CERTIFICATE.

I, *the Reverend John Brown, Minister of Free Church of Scotland at Calcutta in Bengal*, do hereby certify that, on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties, (that is to say) :—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

and that the declaration required by Section 19 of "The Indian Marriage Act, 1865," has been duly made by the said (*James Smith.*)

Date of notice entered *sixth July* 1865.
Date of certificate given *twentieth July* 1865.
} The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *twentieth* day of *July one thousand eight hundred and sixty-five.*

(*Signed*) *JOHN BROWN,*

Minister of the Free Church of Scotland.

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE C—(*See Section* 30.)

FORM OF REGISTER OF MARRIAGES.

Quarterly Returns

of

MARRIAGES

for

The Archdeaconry of .. { *Calcutta,* / *Madras,* / *Bombay.*

I,————————, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } do hereby certify, that the annexed are correct copies of the original and Official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } as made and transmitted to me for the Quarter commencing the *first* day of *October*, ending the *thirty-first* day of *December*, in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

[*Signature of Registrar*]

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay.*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When Married.			Names of Parties.										
Year.	Month.	Day.	Christian.	Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.	By Banns or License.	Signatures of the Parties.	Signatures of two or more Witnesses present.	Signature by whom married.

SCHEDULE D.—*(See Section 34.)*

MARRIAGE REGISTER BOOK.

Number.	When Married.			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
	Day.	Month	Year.	Christian.	Surname.					
1	26*th*	*July*	1865	*James* ...	*White* ...	26 *years* ...	*Widower* ...	*Carpenter*...	*Agra* ..	*William White.*
				Martha...	*Duncan*...	17 *years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Church of Scotland.

This marriage was solemnized between us { *James White,* / *Martha Duncan.* } in the presence of us { *John Smith.* / *John Green.* }

SCHEDULE D.—(*Continued.*)

CERTIFICATE OF MARRIAGE.

Number.	When Married.			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	26*th*	*July*	1865	*James* ...	*White* ...	26 *years* ...	*Widower* ...	*Carpenter*...	*Agra* ...	*William White.*
				Martha...	*Duncan*...	17 *years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us { *James White,* / *Martha Duncan.* } in the presence of us { *John Smith,* / *John Green.* }

ACT No. VII. OF 1865.*

General.

1. Interpretation.
2. Supreme or local Government may by notification render subject to this Act any land covered with trees, brushwood, or jungle; such notification not to affect existing rights.
3. Local Government may make Rules for the management and preservation of Government Forests.
4. Such Rules may provide—
(1.) For the preservation of growing trees, shrubs, &c.
(2.) For regulating the use of streams and canals passing through, or used for transport of the produce of such Forests.
(3.) For the custody of Timber the produce thereof.
(4.) For regulating the duties of Forest Officers.
5. In cases where this Act does not provide the penalty of confiscation, Government may prescribe certain penalties forthe infringement of Rules.
6. Rules, when confirmed, to have the force of law.
7. Implements used in infringing Rules, and timber removed, marked, or cut up contrary to Rules, to be confiscated.
8. Police and Forest Officers may arrest persons infringing Rules and seize implements, &c., liable to confiscation.
9. Person arrested to be taken before Magistrate.
10. The causing or procuring punishable acts to be done, to be punishable in like manner as the acts.
11. Magistrate may summon and examine owner of property seized, and adjudge the confiscation and sale thereof.
12. Persons causing vexatious seizures and arrests, liable to 500 Rupees fine, or 3 months' imprisonment
13. Rules of the Criminal Procedure Code to be applicable to the trial of cases and appeals, and to the enforcement of penalties and confiscations under this Act.
14. Confiscated property to belong to Her Majesty.
15. Local Government may, within 3 months, order the restoration of confiscated property, the remission of penalties, and the discharge of the offender.
16. Suits against persons acting under this Act not to be brought without a month's notice, nor after 3 months from cause of action.
17. Charges to be brought within 6 months of commission of offence.
18. Act not to extend to the territories under the Governments of Madras and Bombay, unless extended thereto by those Governments respectively.
19. Act to come into operation on 1st May, 1865, and may be cited as "The Government Forests' Act, 1865."

An Act to give effect to Rules for the management and preservation of Government Forests.

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood, or jungle, as shall be declared, in accordance with the second Section of this Act, to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the executive administration of a district or place in criminal matters, by whatever designation such Officer is called, and shall include any person invested by the local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Gov-

* All or any of the powers conferred under this Act on the Governor of Bombay in Council as the local Government of the Province of Sind, may, by Act V., 1868, be delegated to the Commissioner in Sind, by the said Governor in Council.

ernor-General in Council to exercise the powers of a local Government under this Act.

Supreme and local Governments may render certain lands subject to the provisions of this Act.

II. The Governor-General of India in Council within the Provinces under his immediate administration, and the local Governments within the territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests and for regulating the conduct of persons employed on them.

III. For the management and preservation of any Government Forests or any part thereof in the territories under their control, the local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

IV. Rules made in pursuance of this Act may provide for the following matters:—

First.—The preservation of all growing trees, shrubs, and plants, within Government Forests of or certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants' tusks, horns, skins, and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into, and the passage through, such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests, or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of, or otherwise interfering with, streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain stations or such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the

lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber, or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting, within certain territorial limits, the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry, within certain territorial limits, of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling, or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act, and the collecting of Forest dues or revenues.

Power to local Government to prescribe punishments for infringement of Rules.

V. In cases where the penalty of confiscation is not provided by this Act, the local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding 500 Rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in Section 67 of the Indian Penal Code.

Rules when to have the force of law.

VI. Such Rules, when confirmed by the Governor-General in Council and published in the Official Gazette, shall have the force of law.

Confiscation in case of infringement of Rules.

VII. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

VIII. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act, may arrest any person infringing any of such Rules, and may seize any inplements used in such infringment, and any timber liable to confiscation under this Act.

Procedure in case of arrest.

IX. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring an act to be done to be punishable in the same manner as the doing of the act.

X. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

XI. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

XII. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding 500 Rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

XIII. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

XIV. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a warrant shall be issued by the Court to a Police Officer, directing him to hold the property confiscated at the disposal of the local Government.

Remission of penalties.

XV. When any confiscation or penalty shall be adjudged under this Act, the local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

XVI. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Period within which charges to be brought.

XVII. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Extent of Act.

XVIII. This Act shall extend to all the territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces, and the Punjab: and it shall be lawful for the Governors in Council of Madras and Bombay, respectively, by notification in the Official Gazette, to extend this Act to the territories under their respective Governments.

Commencement of Act. Short Title.

XIX. This Act shall come into operation on the 1st day of May, 1865, and may be cited as "The Government Forests' Act, 1865."

ACT No. VIII. OF 1865.

High Court (Bengal.)

An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.

Preamble.

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows:

Arrest, &c., heretofore made to be deemed good, though not in accordance with the Procedure Code.

I. All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal, and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original civil jurisdiction, and the detention and imprisonment of all persons so arrested, shall for all purposes be deemed to be, and always to have been, as valid and effectual as if such arrests, detentions, and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

No suit to lie for any such illegal arrest, &c.

II. No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention, or imprisonment as referred to in the preceding Section and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the said Code of Civil Procedure, or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

Extension of the Act to High Courts of Madras and Bombay.

III. The Governor in Council of Fort St. George, and the Governor in Council of Bombay, may, by an order to be published in the Official Gazettes of Madras and Bombay, respectively, extend this Act so as to apply to arrests, imprisonments, and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the 1st day of March, 1865. When so extended, this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

ACT No. X. OF 1865.

General.

THE INDIAN SUCCESSION ACT.

INDEX.

A.

Sections.

ABATEMENT
- Of annuity given by a Will 162
- Of general legacies 287
- Of specific legacies 290

ACCEPTANCE
- Of a benefit given by a Will constitutes an election to take under the Will 173

ACT
- Regimental debts, 1863, not affected 330
- Administrator General's, 1865, not affected ... ... *ib.*
- VIII. of 1855 not affected ... ... *ib.*
- XXVI. of 1860 not affected ... ... *ib.*
- Does not apply to succession to the property of a Hindu, Muhammadan, or Buddhist 331
- Does not apply to a Will made, or an intestacy occurring, before the 1st of January, 1866 ... ... *ib.*

ADEMPTION
- Of legacies 136
- Of specific bequest of right to receive something from a third party 141
- *Pro tanto* by testator's receipt of part of entire thing specially bequeathed 142
- *Pro tanto* by testator's receipt of part of fund of which a portion has been specifically bequeathed 143
- When stock specifically bequeathed does not exist at testator's death 145
- *Pro tanto* when stock specifically bequeathed exists in part only at testator's death 146
- When the thing bequeathed is to be received by the testator from a third person 149

ADMINISTRATION
- Of authenticated copy of Will proved abroad 180
- Cannot be granted to a minor or a lunatic 189
- Entitles administrator to intestate's rights from moment of his death 191
- Does not validate intermediate acts of administrator ... 192
- Grant of, where executor has not renounced 193
- Granted to residuary legatee 196
- On death of residuary legatee, his representative has a right to 197
- When there is no executor or residuary legatee or representative of residuary legatee 198
- Order in which connections are entitled to 200
- Granted to widow 201
- Persons associated with widow in 202
- Grant of, when there is no widow, or she is excluded ... 203
- Deceased's kindred of equal degree equally entitled to ... 204
- Right of widower to 205
- Granted to a creditor 206

ADMINISTRATION.—(*Continued.*) *Sections.*
Rules for, when deceased has left property in British India ... 207
When no Will is forthcoming 211
With the Will annexed to the attorney of an absent executor ... 212
To attorney of absent person who, if present, would be entitled to administer 213
To attorney of absent person entitled to administer in case of intestacy 214
To guardian of a minor 215
Limited grant of, until one of several minor executors attains the age of eighteen 216
For use and benefit of a lunatic *jus habens* 217
Pendente lite 218
Limited to a particular purpose 220
Limited to property in which a person has a beneficial interest ... 221
Limited to a suit 222
Limited to the purpose of becoming a party to a suit against administrator 223
Limited to collection and preservation of deceased's property ... 224
Granted to a person other than the person who, under ordinary circumstances, would be entitled to administration ... 225
Subject to exception 226, 227
Of the rest of deceased's estate after administration has been granted subject to exception 228
Of effects unadministered at the death of the executor ... 229
Of effects unadministered 230
Of unadministered part of deceased's estate after the expiration of a limited grant 231
Application for, made to the Judge of a District in which the deceased had no fixed abode 241
Conclusiveness of letters of 242
Conclusiveness of application for, if properly made and verified 243
Grant of letters of, to be under the seal of the Court ... 255
Stamp on letters of ... ... Sched.
ADMINISTRATION BOND 256
Assignment of 257
Stamp on ... ... Sched.
ADMINISTRATOR
Defined 3
To make inventory of deceased's property ... 255-277
Of effects unadministered, powers of 273
During minority, powers of 274
ADMINISTRATOR GENERAL
Nothing in Act affects the rights of 330
ALTERATION
In an unprivileged Will 58
ANNUITY
Created by Will, payable for life only 160
Legatee may elect to take the money set aside for the purchase of 161
Created by Will shall abate as the other legacies 162
Created by Will shall be satisfied before the residue is paid to the residuary legatee 163
Time for commencement of, when no time is fixed in the Will ... 298
Payable quarterly or monthly, time for commencement of dates of successive payments of 299
Apportioned share to be paid to representative of annuitant who dies between times of payment of ... ... *ib.*

	Sections.
APPEALS	
From orders made by District Judge	263
APPOINTMENT	
Power of, defined	56
Executed by general bequest	78
Implied gift to objects of power in default of	79
Of executor	182
ASSENT	
Of executor necessary to complete legatee's title	292
ASSETS	
Distribution of...	320
B.	
BASTARD—(See *Illegitimate child.*)	
BEQUEST	
May be void for uncertainty	76
Power of appointment executed by a general	78
To the "heirs," &c., of a particular person	80
To the "representatives," &c., or to the "executors and administrators" of a particular person	81
Without words of limitation	82
In the alternative	83
To a person, words describing a class added to a ...	84
To a class of persons under a general description only ...	85
Two, made to the same person	88
Residuary	90
To a lineal descendant who dies in testator's life-time, leaving descendants	96
To a described class of persons	98
To such members of a class as shall have attained a particular age	108
Onerous	109
Contingent upon a specified uncertain event	111
To such of certain persons as shall survive at some period not specified	112
Of a fund for certain purposes, some of which cannot be fulfilled	127
To an executor	128
Of stock where testator has an equal or greater amount of stock of the specified kind	131
Of money of which payment is postponed	132
Of enumerated articles, when not specific	133
Specific, to two or more persons in succession	134
Not specific, to two or more persons in succession	135
Of a thing described in general terms	158
Of the interest or produce of a fund	159
Of annuity ... ... (See *Annuity.*)	160-163
Not adeemed by subsequent provision for legatee	166
Conditional	113-124
Upon an impossible condition	113
Upon illegal or immoral condition	114
When the condition is considered to be fulfilled	115
On failure of prior, second bequest shall take effect, though the failure occurs in a manner not contemplated	116
Unless the contrary appear from the Will	117
Over, conditional on the happening or not happening of a specified uncertain event	118
Such bequest of no effect unless condition is fulfilled ...	119

BEQUEST.—(*Continued.*) *Sections.*
Subject to prior bequest, invalidity of, does not affect the validity of the original bequest 120
May be made with the condition that it shall cease to have effect in case a specified uncertain event shall happen 121
Validity of such condition 122
Void 99-105
If made by particular description to a person not in existence ... 99
Subject to a prior bequest to a person not in existence ... 100
If the vesting of the thing bequeathed be delayed beyond the life-time of any person and the minority of the legatee ... 101
To a class with regard to some of whom it is inoperative ... 102
If intended to take effect after a prior bequest which is void for certain reasons 10
For religious or charitable uses 105
(See *Abatement, Ademption.*)
BRITISH INDIA
Meaning of the term 3
Law of, applicable to cases of Intestate and Testamentary succession 2
Succession to immoveable property in 5
Acquisition of domicile in 11
Law of succession to moveables in 19
BUDDHIST
Act does not apply to succession to the property of a ... 331
CAPITAL
Of testator's estate may be applied to satisfy annuities ... 163
CAVEAT
Against grant of probate or administration 251
Form of 252
After entry of, no proceeding to be taken without notice to the caveator 253
Stamp on ... ... Sched.
CITATION
To be issued before grant of administration to a legatee other than universal or residuary legatee 199
Stamp on ... ... Sched.
CODICIL
Defined 3
Discovered after grant of probate 185
COLLATERAL CONSANGUINITY
Defined 22
(See *Consanguinity.*)
CONDITIONAL BEQUESTS 113-124
(See *Bequest.*)
CONSANGUINITY
Defined 20
Lineal, defined 21
Collateral, defined 22
Table of 24
(See *Kindred.*)
CONSTRUCTION
Of Wills 61-98
(See *Will.*)
CREDITOR
Entitled to legacy as well as debt 164
Paid in part to bring such payment into account before sharing in the proceeds of deceased's immoveable property 284

	Sections.
DEBTS	
Of deceased to be paid equally and rateably by executor ...	282
Must be paid before legacies	285
DEMONSTRATIVE LEGACY	
Defined	137
When not adeemed	140
Right under, when assets are sufficient to pay debts ...	289
DISTRIBUTION	
Of intestate's property	29-42
Of assets	320
(See *Intestate.*)	
DISTRICT JUDGE	
Defined	3
Has jurisdiction in granting and revoking probates and letters of administration	235
Powers of, in relation to the granting of probate and letters of administration	236
May order any person to produce testamentary papers ...	237
Proceedings of, regulated by the Code of Civil Procedure ...	238
May interfere for the protection of property	239
May grant probate or letters of administration	240
May refuse grant of probate if the deceased had no fixed abode in the District	241
DOMICILE	5-19
Of deceased regulates succession to moveables	5
A person can have but one	6
Of origin, of person of legitimate birth	7
Of posthumous child	*ib*
Of illegitimate child	8
Continuance of	9
Acquisition of	10
Not necessarily acquired by residence	*ib*
Acquisition of, in British India	11
Not acquired merely by residence in a country as the representative of a foreign Government	12
Continuance of	13
Minor's, follows domicile of the parent from whom he derived his domicile of origin	14
Acquired by a woman on marriage	15
Of wife follows her husband's	16
When a minor can acquire a new	17
Acquisition of new, by lunatic	18
In absence of proof of, succession to moveable property in British India is regulated by the law of British India	19
The application of the moveable property of a deceased person to the payment of his debts is regulated by the law of the country in which he has his	283
DUTIES—(See *Customs, Stamp.*)	
ELECTION	
When it takes place	167
Devolution of interest relinquished by person making ...	168
Rules relating to, not affected by testator's belief as to his ownership	169
Bequest for a man's benefit how regarded for purpose of ...	170
A person who takes no benefit directly under the Will is not put to his	171

Sections.

ELECTION.—(*Continued.*)

To take in opposition to the Will does not disqualify the person from taking a benefit under the Will 172
When acceptance of a benefit given by a Will constitutes ... 173
Inference of waiver of inquiry into circumstances which might influence 174, 175
Representatives may call upon legatee to make 176
Postponement of, in case of disability 177

EXECUTOR

Defined 3
Not disqualified as a witness 55
Shall not take legacy as executor unless he shows intention to act 128
Is deceased's legal representative for all purposes 179
Appointed by the Will, probate can be granted to no one who is not 181
Appointment of 182
Accrual of representation to surviving 186
When right as, can be established 187
To recoup himself for payments made before probate or letters of administration revoked 262
Of his own wrong 265
Liability of 266
Powers of, in respect of causes of action surviving the deceased, and rents due at the time of his death 267
Demands and rights which survive to and against 268
Has power to dispose of deceased's property 269
Purchase of deceased's property by, is voidable 270
Powers of several may be exercised by one 271
Powers of, survive to survivors 272
To perform deceased's funeral 276
To show inventory of property, &c., within 6 months 254, 277
To show account of estate within one year ... ... *ib*
To collect property and debts due to deceased 278
To pay deceased's debts equally and rateably 282
Not bound to pay legacies without indemnity to meet contingent liabilities 286
Not to pay one legatee in preference to another 287
Assent necessary to complete legatee's title 292
Assent to specific legacy 293
Conditional assent 294
Assent to his own legacy 295
Assent to legacy gives effect to it from death of testator ... 296
Not bound to pay a legacy until one year from the testator's death 297
Who has paid a legacy under the order of a Judge may call on the legatee to refund if the assets are insufficient to pay all the legacies 316
Who has paid a legacy voluntarily cannot call for refund ... 317
Liability of, for devastation 327
For neglect to get in any part of deceased's property ... 328

EXONERATION

Of legatee's immoveable property for which land-revenue or rent is payable periodically 156
Of specific legatee's stock in a Joint Stock Company ... 157

Sections.

EXPENSES
Of deceased's funeral to be paid before all debts ... 279
Of obtaining probate or letters of administration to be paid next after funeral expenses, &c. ... 280

FAILURE
Of gift in contemplation of death ... 178
For instrument or writing mentioned in the Act ... 32

FORM
Of grant of probate ... 254
Of letters of administration ... 255

FUNERAL
Expenses and death-bed charges to be paid before all debts ... 279

GENERAL LEGACY
Abatement of ... 287
(See *Bequest.*)

GIFT
Implied, to the objects of a power in default of appointment ... 79
In contemplation of death ... 178
Property transferable by ... 178
May be resumed ... 178
Fails in certain cases ... 178

GOVERNMENT
Local, (See *Local Government.*)

GOVERNOR-GENERAL
Of India in Council may exempt any tribe in British India from the operation of the Act... 332

GRANTS
Of probate or letters of administration, errors in, may be rectified by the Court ... 232
May be amended if a codicil is discovered after the grant ... 233
Revocation of ... 234
(See *Probate.*)

GRANTEE
Of probate or letters of administration alone can act as deceased's representative ... 260

HIGH COURT
Meaning of the term ... 3
Has concurrent jurisdiction with the District Judge in the exercise of powers conferred by the Act ... 264

HINDU
Act does not apply to succession to the property of any ... 331

HOTCHPOT
Children's advancements not to be brought into ... 42

ILLEGITIMATE CHILD
Domicile of origin of ... 8

IMMOVEABLE PROPERTY
Defined ... 3
In British India, succession to, is regulated by law of British India ... 5

IMPLICATION
Appointment of executor by, necessary... 182

INCOME
Direction to accumulate, is void ... 104

INSANE PERSON—(See *Lunatic.*)

INSTRUMENT
Or writing, stamps and fees, for ... 329

Sections.

INTEREST
When no time is fixed for payment of a general legacy ... 311
When a time has been fixed for payment of a general legacy ... 312
Rate of, on legacies 313
Not payable on arrears of annuity within the first year from the testator's death 314
On a sum to be invested to produce an annuity 315
Refunding of legacies without 325

INTERLINEATION
In an unprivileged Will 58

INTESTACY 25-28

INTESTATE'S PROPERTY, distribution of—
(*a*) *Where he has left lineal descendants* 29-33
Where he has left a child or children only 30
Where he has left a grand-child, but no child, and no more remote lineal descendants 31
Where he has left only lineal descendants of the same degree ... 32
Where he has left lineal descendants of different degrees of kindred, and the persons through whom the more remote descend are dead 33
(*b*) *Where he has left no lineal descendants* 34-42
If intestate's father be living 35
If his father be dead, and he has left a mother, brothers, and sisters, but no child of a deceased brother or sister 36
If his father be dead, and he has left a mother, brother, and sisters, and a deceased brother's or sister's child 37
If his father, brothers, and sisters are all dead, but he has left a mother, and a brother's or sister's child 38
If his brothers and sisters, all their children, and his father, are dead, but his mother is living 39
If he has left a brother or sister, and a child of a deceased brother or sister, but no parent 40
If he has left no parent, nor brother nor sister 41
When right to, can be established 190

INVALIDITY
Of will or bequest for uncertainty 76
Of direction to accumulate the income from property ... 104
Of bequest, if made by particular description to a person not in existence 99
Subject to a prior bequest, to a person not in existence ... 100
If the vesting of the thing bequeathed be delayed beyond the life-time of any person and the minority of the legatee ... 101
If made to a class with regard to some of whom it is inoperative for certain reasons 102
If intended to take effect after a prior bequest which is void for certain reasons 103
For religious or charitable uses 105
Upon an impossible condition 113
Upon illegal or immoral condition 114
Subject to a prior bequest, does not affect the validity of the original bequest 120
(See *Bequest.*)

INVENTORY
Made by executor or administrator 254, 255, 277
Stamp on ... ... Sched.

INVESTMENT — *Sections.*
Of funds to provide for legacies 301-308
Of sum when a legacy, not specific, is given for life ... 301
Of amount of general legacy to be paid at a future time ... 302
Of sum to produce an annuity 303
JURISDICTION
Of District Judge in granting and revoking probates and letters of administration 235
KINDRED 20-24
Defined 20
Table of 24
LAPSE (See *Consanguinity.*)
Of legacy 92
LAPSED SHARE
Being part of the general residue, goes as undisposed of ... 95
LEGACY
To a person who attests the Will is void 54
Given in general terms, vesting of 91
Lapses if legatee does not survive testator 92
Does not lapse if one of two joint legatees die before testator ... 93
Unless it be given in words which show that the testator intended that the shares should be distinct 94
To lineal descendant does not always lapse when he dies before the testator 96
To one person for the benefit of another does not lapse on the death, in the testator's life-time, of the person to whom the bequest is made 97
Vesting of, where legatee is not entitled to immediate possession 106
Vesting of, when contingent on specified uncertain event ... 107
Executor shall not take, unless he manifests an intention to act 128
Specific, defined 129
Of a sum, certain, not specific, merely because the stocks, &c., in which it is invested are described 130
Directed to be paid out of a fund, part of which is the subject of a specific legacy 138
Ademption of 139-143
(See *Ademption.*)
Charged on a fund, part of which is the subject of a specific legacy, when testator has received part of the fund and the remainder is insufficient to pay both legacies 144
To a creditor not taken as satisfaction of debt 164
To a child not taken as satisfaction of portion 165
Debts must be paid before 285
Abatement of 287-290
(See *Abatement.*)
Treated as general for purpose of abatement 291
Time for payment of 297
Rate of interest on 313
Refunding of 316-326
(See *Refund, Speicfic.*)
LEGAL REPRESENTATIVE
Of deceased ... ...
(See *Executor.*)
LEGATEE
Loses his legacy if he attests the Will 54
Does not lose his legacy by attesting a Codicil confirming the Will 54

LEGATEE.—(*Continued.*) *Sections.*
Can take nothing by an onerous bequest unless he accepts it fully 109
May accept one and refuse the other of two separate bequests ... 110
Rendering impossible an act on the non-performance of which the legacy is to go over 123
Must perform condition within specified time, unless the delay be caused by fraud 124
May receive unconditionally a fund bequeathed to him, although the Will directs that it is to be enjoyed in a particular manner 125-126
Accepts specific legacy subject to any pledge or lien ... 154
Of annuity is entitled to it for his life only 160
May take an annuity or money set apart for the purchase of an annuity 161
Who is a minor, entitled to immediate payment 308
Of specific legacy is entitled to the clear produce thereof from the testator's death 309
Under a general residuary bequest is entitled to the produce of the residuary fund from testator's death 310
When not obliged to refund 322
Unsatisfied, may proceed against executor if he is solvent ... 323
Limit to refund by one, to another 324
Residuary, (See *Residuary Legatee.*)

LEGITIMATE
Child, domicile or origin of 7

LETTERS
Of Administration not granted till fourteen days after the intestate's death 258
(See *Administration.*)

LIMITED GRANTS—(See *Probate.*)

LINEAL CONSANGUINITY. 21
(See *Consanguinity.*)

LOCAL GOVERNMENT
Meaning of the term 3

LUNATIC
Acquisition of new domicile by 18
Probate cannot be granted to 183

MARRIAGE
Neither interest in, nor power over property is acquired or lost by 4
Between a person domiciled and a person not domiciled in British India 44
Settlement of minor's property in contemplation of ... 45
Revocation of Will by 56

MARRIED WOMAN
Probate cannot be granted to, without husband's previous consent 183
To whom probate has been granted, powers of 275

MINOR
Meaning of the term 3
Domicile of 14
Acquisition of new domicile by 17
Settlement of property of, in contemplation of marriage ... 45
Probate cannot be granted to a 183

MINORITY
Defined 3

Sections.

MONTH
Meaning of the word 3
MOVEABLE PROPERTY
Defined ... ... *ib*
Succession to, is regulated by law of country in which the deceased had his domicile at his death 5
A person can have but one domicile for succession to his ... 6
In British India, law of succession to 19
MUHAMMADAN
Act does not apply to succession to the property of a ... 331
OBLITERATION
In an unprivileged Will 58
ONEROUS BEQUEST
Legatee takes nothing by, unless he accepts it fully ... 109
PAYMENTS
To executor before probate or letters of administration revoked 262
PERSON
Meaning of the term 3
PERSONS
Who are held, for purposes of succession, to be similarly related to a deceased person 23
PETITION
For probate 244
For letters of administration 246
For probate or letters of administration to be subscribed and verified by petitioner and his pleader 247
Stamp on ... ... Sched.
PETITIONER
For probate may be examined by District Judge 250
PORTION
Legacy to a child not taken as satisfaction of 165
POSTHUMOUS CHILD
Domicile of origin of 7
POWER
Of appointment, defined 56
Executed by a general bequest 78
(See *Appointment.*)
POWERS
Of married executrix 275
PROBATE
Defined 3
Can be granted only to an executor appointed by the Will ... 181
Cannot be granted to certain persons 183
May be granted to several executors simultaneously or at different times 184
Separate probate of Codicil discovered after grant of ... 185
Establishes the Will from testator's death 188
Of copy or draft of lost Will 208
Of contents of lost or destroyed Will 209
Of copy where original exists 210
Limited to purpose specified in the Will 219
Subject to exception 226
Of the rest of deceased's estate after probate has been granted subject to exception 228
Petition for 244
Stamp for ... ... Sched.

PROBATE.—*(Continued.)* *Sections.*
Translation of Will to be annexed to the petition for ... 245
Grant of, to be under seal of Court 254
Not to be granted till seven days after testator's death ... 258
Expenses of, to be paid next after funeral expenses, &c. ... 280
Contentious cases concerning grants of 261
Stamp for ... ... Sched.
PRODUCE
And interest of legacies 309-315
PROPERTY
Interest in and power over, not acquired or lost by marriage ... 4
In respect of which a deceased person is considered to have died intestate 25
Devolution of intestate's 26-28
Distribution of intestate's 29-42
(See *Intestate.*)
Not included in a settlement made previous to the marriage of a person domiciled in British India, and a person not domiciled in British India 44
Settlement of minor's, in contemplation of marriage ... 45
Invalidity of direction in a Will to accumulate the income arising from 104
Transferable by gift in contemplation of death 178
Of deceased, vests in executor or administrator as representative 179
PROVINCE
Defined 3
PUNISHMENT
For false verification of petition 249
REFUND
Of legacy paid under Judge's order 319
When legacy has become due on the performance of a condition 318
For discharge of a debt of which the executor had no previous knowledge 319
May be called for within two years from testator's death ... 321
Limit to 324
To be without interest 325
REGIMENTAL DEBTS, ACT, 1863
Not affected 330
RENUNCIATION
Of executorship 194
Administration may be granted to the person entitled to administer in case of intestacy 195
RESIDUARY LEGATEE
How constituted 89
Property to which he is entitled 90
Shall not receive any of the residue until annuities created by the Will are satisfied 163
Transfer of amount of contingent bequest to 304
RESIDUE
Bequeathed to a person for life, investment of 305
Bequeathed to a person for life, with direction to invest in specified securities 306
Time and manner of such investment 307
Of property after payment of debt and legacies, shall be paid to the residuary legatee 326
REVIVAL
Of unprivileged Will after revocation 60

Sections.

REVOCATION
Of Will by testator's marriage 56
Of unprivileged Will 57
Of privileged Will 59

SETTLEMENT
Of minor's property in contemplation of marriage 45

SPECIFIC LEGACY
To two or more persons in succession 134
Not liable to abate with general legacies 136
Of goods, described as in a certain place, is not adeemed by removal 147-148
Is not adeemed when subject is changed by operation of law ... 150
Is not adeemed when subject is changed without testator's knowledge 151
Of stock is not adeemed when the stock is lent to a third party on condition that it shall be replaced 152
Of stock is not adeemed if the stock is sold and replaced ... 153
Does not abate if the assets are sufficient to pay debts ... 288
Rateable abatement of, if assets are not sufficient to pay debts 290
(See *Abatement, Ademption.*)

STAMPS
On instruments 329

SUCCESSION
To immoveable property in British India is regulated by the law of British India 5
To moveable property is regulated by law of the country in which the deceased had his domicile 5
To moveable property, a person can have but one domicile for ... 6
To a person's moveable property in British India, in absence of proof of domicile elsewhere, is regulated by the law of British India 19
Persons similarly related to a deceased person for purpose of ... 23

TABLE OF KINDRED 24

TENOR
Executor according to 182

TESTATOR'S
Title to things bequeathed to be completed at the cost of his estate 155

UNCERTAINTY
A Will or bequest may be void for 76

VERIFICATION
Of petition for probate by one of the witnesses to the Will ... 248

VESTING
Of legacy given in general terms 91
When payment or possession postponed 106
Contingent on specified uncertain event 107
Of interest in a bequest to such members or of a class as shall have attained a particular age 108

VOID BEQUESTS 99-105
(See *Bequest, Invalidity.*)

WAGES
For services rendered to the deceased within three months next preceding his death to be paid next after expenses of funeral and probate 281

WIDOW
May be excluded from her share of her husband's estate ... 26
Share of intestate husband's property 27

Sections.

WIDOW.—*(Continued.)*
Share to be deducted before distribution of estate 29, 34
Widower has same rights as 43
WIDOWER
Has same rights in respect of intestate wife's property as a widow has in respect of intestate husband's property ... 43
WILL
Defined 3
Persons who may dispose of their property by 46
A father may appoint a guardian for his child by 47
Obtained by fraud, coercion, or importunity 48
May be revoked or altered 49
Rules for execution of unprivileged 50
Written document considered to form part of 51
A bequest to a witness is void 54
Is not insufficiently attested by reason of a bequest to a person tatesting it .. .. *ib.*
An executor is not disqualified as a witness to prove the execution or validity of 55
Revoked by testator's marriage 56
Made in exercise of power of appointment, not revoked by testator's marriage ... ... *ib.*
Unprivileged, can only be revoked by marriage or by another Will or codicil, or by a writing executed as an unprivileged Will 57
Unprivileged, effect of obliteration, interlineation, or alteration in 58
Unprivileged, revival of 60
Construction of 61-98
Wording of 61
Questions as to object or subject of 62
Misnomer or misdescription of object of 63
When words may be supplied in a 64
Rejection of erroneous particulars in description of subject of ... 65
When part of description is not to be rejected as erroneous ... 66
Extrinsic evidence admissible in case of latent ambiguity ... 67
Extrinsic evidence inadmissible in case of patent ambiguity or deficiency 68
Meaning of any clause of, to be collected from the entire .. 69
Words may be taken in a restricted sense, or in a sense wider than usual 70
Where a clause is susceptible of two meanings 71
No part of, to be rejected as destitute of meaning ... 72
Words occurring in different parts of, are taken to be used everywhere in the same sense 73
Testator's intention to be carried out as far as possible ... 74
Of two inconsistent clauses, the latter shall prevail 75
May be void for uncertainty 76
Words describing subject refer to property answering that description at the testator's death 77
Where a bequest is made to the "heirs," &c., of a particular person 80
Where a bequest is made to the "representatives" or to the "executors" or "administrators" of a particular person 81
Where property is bequeathed to any person without words of limitation 82
Where property is bequeathed to a person with a bequest in the alternative 83

WILL.—*(Continued.)* *Sections.*

Where property is bequeathed to a person, and words are added to describe a class of persons 84

Where a bequest is made to a class under a general description only 85

Construction of the terms "children," "grand-children," "nephews," "nieces," "cousins," "first cousins," "cousins-german," "first cousins once removed," "second cousins," "issue," and "descendants" in a 86, 87

Where two bequests are made to the same person ... 88

Of which probate or letters of administration may be granted shall be filed 259

Privileged, persons who may dispose of their property by 52

Execution of... 53

May be made by word of mouth ... ... *ib.*

Revocation of 59

(See *Annuity, Bequest, Legacy.*)

WITNESS

Will to be attested by two or more 50

To a Will cannot take a legacy 54

WOMAN

Acquires domicile by marriage 15

Domicile of married, follows the domicile of her husband ... 16

WRITING

Stamps and fees for 329

YEAR

Meaning of the word 3

PART I.

PRELIMINARY.

1. Act may be cited as "The Indian Succession Act, 1865."
2. This Act to constitute the law of British India in cases of Intestate and Testamentary Succession.
3. Interpretation
4. No person to acquire by marriage any interest in property belonging to the person whom he or she marries, nor to lose thereby any right in respect of his or her own property.

PART II.

OF DOMICILE.

5. Succession to immoveable property in India to be regulated in all cases by the law of British India. Succession to moveable property to be regulated by the law of the country in which deceased was domiciled at the time of death
6. There can be only one domicile for purpose of succession to moveable property.
7. The domicile of origin of a legitimate child is in the country in which at the time of his birth his father was domiciled, or if a posthumous child, in the country in which his father was domiciled at the time of death.
8. The domicile of origin of an illegitimate child is in the country in which his mother was domiciled at the time of his birth.
9. The domicile of origin to prevail until the acquisition of a new domicile.
10. A new domicile is acquired by fixed habitation in a country other than the domicile of origin.
11. Any person resident in India for one year may acquire a domicile therein by making and depositing with the local Government a declaration to that effect.
12. Ambassadors and Consuls, and their families and servants, do not acquire a domicile by mere residence.
13. New domicile to continue until former domicile be resumed or another acquired.
14. The domicile of a minor follows the domicile of the parent giving the domicile of origin, unless he be married, or hold Government Office, or be set up in business with consent.
15. A woman acquires by marriage the domicile of origin of her husband.
16. Such domicile continues during marriage, except in case of legal separation, or transportation of husband
17. Except as above, a minor cannot acquire a new domicile.
18. An insane person cannot acquire a new domicile, unless where his domicile follows that of another.
19. In the absence of proof of domicile elsewhere, succession to moveable property in India to be regulated by the law of India.

PART III.

OF CONSANGUINITY.

20. Definition of kindred or consanguinity
21. Definition of lineal consanguinity and of degrees of relationship in such cases.
22. Definition of collateral consanguinity, and of degrees of kindred in such cases.
23. No distinction, for purposes of succession, between persons related through the father or mother of deceased person, nor between relations by full and half blood, nor between those born in the lifetime and those born afterwards but conceived at the date of deceased's death.
24. The Table annexed is computed up to the sixth degree.

PART IV.

Of Intestacy.

25. Definition of intestacy.

26. Property in regard to which a person dies intestate to devolve as hereinafter prescribed, except in the case of a widow who, by a contract made before marriage, has been excluded from her distributive share.

27. Where there are lineal descendants, the widow is entitled to one-third of the property, the remainder going to those descendants. Where there are kindred other than lineal descendants, the widow is entitled to half, the remainder going to such kindred. If no kindred, the whole to belong to the widow.

28. If there be no widow, the property to go to the lineal descendants or kindred; and then, if no kindred, to the Crown.

PART V.

Of the Distribution of an Intestate's Property.

(a.) *Where he has left lineal descendants.*

29. Intestate's property to be distributed (after deducting widow's share, if there be a widow) amongst lineal descendants according to the following Rules.

30. The property to belong to the intestate's surviving child if there be only one, and no remoter lineal descendant through a deceased child; or to be equally divided if there be more than one surviving child.

31. If there be no surviving children, but only grand-children, and no remoter lineal descendant through a deceased grand-child, the property to belong to the surviving grand-child; or to be equally divided if there be more than one grand-child.

32. In other cases the property to go to the nearest surviving lineal descendants.

33. If there be lineal descendants not of the same degree, and the ancestors of the more remote descendants are dead, the property to be divided into such a number of equal shares as correspond with the number of surviving kindred of the nearest degree and those of the same degree who died leaving lineal descendants. The share of the deceased kindred to belong to his surviving child or children.

(b.) *Where the Intestate has left no lineal descendants.*

34. The following are the Rules for the distribution of property (after deducting the widow's share, if there be a widow) where there are no lineal descendants.

35. Intestate's father, if living, to succeed.

36. If the father be dead, but the mother living, and there are also brothers and sisters, but no child of any deceased brother or sister, the mother and each living brother or sister to have equal shares.

37. If the father be dead, but the mother living, and there are brother or sister and the child or children of any deceased brother or sister, the mother and each living brother or sister, and the child or children of each deceased brother or sister, are entitled to equal shares, the share of a deceased brother or sister being equally divided among his or her children.

38. If the father be dead, but the mother living, and there are children of deceased brothers or sisters, but no surviving brother or sister, the mother and the child or children of each deceased brother or sister are entitled to the property in equal shares, such children taking in equal shares only the shares of their respective parents.

39. If the father be dead, but the mother living, and no brother or sister, or child of any brother or sister, the property to belong to the mother.

40. If there are no lineal descendants, nor any parents, the property to be divided equally between the surviving brothers and sisters and the child or children of such of them as are deceased; such children taking shares as in Sections 37 and 38.

41. If there be no lineal descendant, nor parent, nor brother, nor sister, the property to be divided equally among the nearest kindred.

42. Money or property given or settled for the advancement of a child, not to be taken into account in estimating the distributive share of such child or his descendant.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

43. Husband of wife dying intestate to have the same rights over her property as a widow has over her husband's property.

44. In the case of a marriage between a person domiciled and a person not domiciled in India, neither party acquires (except by an ante-nuptial settlement) any right over the property of the other, which he or she would not acquire if both were domiciled in India.

45. With the approbation of the father, or, if he be dead or absent, of the High Court, the property of a minor may be settled in contemplation of marriage.

PART VII.

Of Wills and Codicils.

46. Persons of sound mind, not being minors, may dispose of property by Will.

47. A father may by Will appoint guardians for his child during minority.

48. Wills made under fraud, coercion, or importunity to be void.

49. A Will may be revoked or altered at any time during the competency of the maker to dispose of his property by Will.

PART VIII.

Of the Execution of Unprivileged Wills.

50. Except a Soldier engaged on an expedition or in war, and a Mariner at sea, every testator to make his Will as follows:—

(1.) The testator must sign or affix his mark, or cause some other person to sign it in his presence.

(2.) Signature or mark to be placed so that it may appear that the writing was intended to be a Will.

(3.) Will to be attested by two or more witnesses, each of whom must have seen the testator or other person signing, or have received the testator's acknowledgment of the signature; each witness to sign in presence of the testator, but not necessarily at the same time, and no particular form of attestation is necessary.

51. Document referred to in a Will or Codicil to be considered a part of such Will or Codicil.

PART IX.

Of Privileged Wills.

52. A Soldier engaged in warfare, or a Mariner at sea, may, if of 18 years, make a Will in the manner prescribed by Section 53. Such Will to be called a privileged Will.

53. A privileged Will may be made in writing or by word of mouth:—

(1.) If written wholly by the testator, it need not be signed or attested.

(2.) If written wholly or in part by another person and signed by the testator, it need not be attested.

3.) An instrument written as above and not signed, shall be held to be the testator's Will if shown to be written by his directions and recognised by him as his Will. If the non-completion arise from other cause than abandonment of the testator's intention, instrument to be not, therefore, invalid.

(4.) Instructions for the preparation of a Will to be considered a Will, if testator die before the Will could be prepared and executed.

(5.) Verbal instructions, reduced into writing in life-time of testator, to be considered a Will, though testator die before the instrument could be prepared and executed.

(6.) A Will may be by word of mouth, if testator declare his intention before two witnesses present at the same time.

(7.) A Will so made to be null one month after testator cease to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration, and Revival of Wills.

54. A Will not to be considered insufficiently attested by reason of any benefit or bequest to a witness or his wife, or her husband, but such bequest to be void.

55. The executor or person interested in a Will not to be disqualified to prove execution or the validity or invalidity thereof.

56. A Will shall be revoked by marriage of maker, unless made under power of appointment in cases in which, in default of such appointment, the property would not pass to executor or person entitled in case of intestacy.

57. No unprivileged Will shall be revoked otherwise than by marriage or another Will or Codicil, or by a writing declaring such intention, executed as an unprivileged Will, or by the burning, tearing, or destroying of the same with such intention.

58. No obliteration or interlineation in an unprivileged Will to have effect, unless signed and attested in the margin or at the foot of the Will.

59. A privileged Will may be revoked by an unprivileged Will or Codicil, or by any act expressing such intention and accompanied by formalities necessary for a privileged Will, or by burning, tearing, or destroying with such intention.

60. A revoked unprivileged Will cannot be revived otherwise than by re-execution, or by a Codicil showing an intention to do so. The revival of a Will partly revoked and afterwards wholly revoked, shall not extend to the portion first revoked, unless such intention be shown in the Will or Codicil.

PART XI.

Of the Construction of Wills.

61. The wording of a Will need not be in technical words or terms.

62. In order to determine what person or property is denoted in a Will, the Court shall enquire into every fact the knowledge of which may conduce to the right application of the words used.

63. Errors in name or description not to invalidate legacy, if the words used sufficiently show what legatee or class of legatees is meant.

64. Material words omitted may be supplied by the context.

65. Portions of the description of a thing bequeathed which do not apply, to be rejected as erroneous, if the thing can be sufficiently identified from the description.

66. Where any property answers to all the circumstances in a description, the bequest to be limited to such property; and no part to be rejected as erroneous because there is other property to which such part does not apply.

67. Where words are unambiguous except by extrinsic evidence, such evidence may be taken to show which of two or more applications was intended.

68. In cases of ambiguity or deficiency, no extrinsic evidence to be admitted.

69. All the parts of a Will must be construed together. A Codicil shall be considered as part of a Will.

70. General words may be understood in a restricted sense, and other words may be understood in a sense wider than their usual signification, if such intention be collected from the Will.

71. If a Clause be susceptible of two meanings, one of some effect, the other of none, the former to be preferred.

72. No part to be rejected, if it be possible to put a reasonable construction upon it.

73. Words repeated in different parts, shall be taken to be used in the same sense, unless a contrary intention appear.

74. Intentions of testator to take effect as far as possible.

75. Of irreconcileable clauses or gifts, the last to prevail.

76. A Will or bequest of indefinite intention is void.

77. Unless the contrary appear by the Will, the property answering the description at the time of death, to be deemed the property described in the Will.

78. Bequest of estate to include property which the testator may have power to appoint by Will, and to operate as an execution of such power, and a bequest of property generally described to include any property of that description, which the testator may so appoint.

79. If property be bequeathed for such of certain objects, or for certain objects in such proportions, as a specified person shall appoint, and no provision be made in default of appointment, the property to belong to all the objects in equal shares, if the power be not exercised.

80. Property bequeathed in general terms to "heirs," "relations," or "kindred," to be distributed as if testator died intestate.

81. Property bequeathed to "representatives," or "executors or administrators," to be distributed as if testator died intestate.

82. Unless specially restricted, the person to whom property is bequeathed is entitled to the whole interest of the testator therein.

83. If property be bequeathed in the alternative, the legatee first named shall be entitled, and failing him, the person or persons named in the second branch of the alternative.

84. If property be bequeathed to a person with the addition of words describing a class of persons, but not denoted as direct objects of a gift, such person is entitled to the property.

85. If a bequest be made to a class of persons under a general description, persons to whom such description is not ordinarily applicable shall not take the legacy.

86. Construction of terms indicating certain degrees of relationship.

87. Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

88. In cases of doubt, where two bequests are made to the same person, the following Rules to prevail:—

(1.) If the same thing be twice bequeathed, the legatee to receive that thing only.

(2.) If in the same Will or Codicil two bequests be made of the same quantity or amount of any thing, the legatee is entitled to one such legacy only.

(3.) If two legacies of unequal amount be given, the legatee is entitled to both.

(4.) If two legacies be given, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both.

89. A residuary legatee may be constituted by any words showing an intention that such person shall take the surplus or residue of the testator's property.

90. A residuary legatee is entitled to all the property of the testator regarding which he has made no testamentary disposition.

91. A legatee has a vested interest in the legacy from the day of the testator's death, and such legacy shall pass to his representatives, if the legatee die without receiving it.

92. If a legatee die before the testator, the legacy shall lapse and form part of the residuary property, unless the testator intended it to go to some other person.

93. A legacy given to two persons jointly, shall be taken by the legatee who survives the testator.

94. But if such joint legatees have distinct shares given them, the share of the deceased legatee shall fall into the residue.

95. If the lapsed share be a part of the general residue bequeathed by the Will, such share shall go as undisposed of.

96. A bequest made to a lineal descendant dying before the testator, shall not lapse if any descendant of such legatee survive the testator. Unless the contrary appear, such legacy shall take effect as if the legatee had died immediately after the testator.

97. A bequest to one person for the benefit of another does not lapse by the death of the legatee.

98. A bequest to a class shall go to the surviving members thereof.

PART XII.

Of Void Bequests.

99. A bequest to a person by a particular description is void, if at the testator's death there is no such person.

100. A bequest to a person not in existence at the time of the testator's death, subject to a prior bequest, is void unless it comprises the remaining interest in the thing bequeathed.

101. No bequest valid, if the vesting of the legacy may be delayed beyond the life-time of a person living at the testator's decease, and the minority of another person who may then be in existence, and to whom, if of full age, the legacy is to belong.

102. A bequest to a class of persons, some of whom fall under Sections 100 or 101, is wholly void.

103. If a bequest be void under any of the three preceding Sections, any bequest in the same Will, intended to take after or upon failure of such bequest, is also void.

104. A direction to accumulate income from property, except during one year from testator's death, is void: such property shall be disposed of, as if no such direction existed.

105. Bequest for religious or charitable uses by a man having a nephew or niece or nearer relatives not to be valid, unless the Will be executed at least 12 months before death, and deposited within 6 months of execution in a place for the legal custody of Wills.

PART XIII.

Of the Vesting of Legacies.

106. If legatee not entitled to immediate possession, the right to receive the legacy at the proper time, unless the contrary appear, becomes vested in interest in the legatee at the death of the testator.

107. A legacy bequeathed in case a specified uncertain event shall happen or shall not happen, not to vest until the event happens or the happening of it becomes impossible. Such interest is called contingent.

108. Bequest to members of a class of a particular age not to vest in a person not of that age.

PART XIV.

Of Onerous Bequests.

109. A bequest with an obligation cannot be partially accepted.

110. If a beneficial and an onerous bequest be made to the same person, he may accept one and refuse the other.

PART XV.

Of Contingent Bequests.

111. Legacy contingent upon an uncertain event as to which no time is mentioned, not to take effect unless such event happens prior to the proper period for distribution of the fund.

112. Unless a contrary intention appear, bequest to such as shall be surviving at some period not specified, to go such as shall be alive at time of distribution.

PART XVI.

Of Conditional Bequests.

113. Bequest upon impossible condition void.

114. Bequest upon illegal or immoral condition void.

115. A condition substantially complied with shall be considered fulfilled.

116. A second bequest shall take effect on failure of a prior bequest of the same thing, though such failure may not have occurred as contemplated.

117. But if such an intention appear, a second bequest shall not take effect unless the prior bequest fail in the particular manner.

118. A bequest may be made on the condition that if a specified uncertain event happen, or if a specified uncertain event shall not happen, it shall go to another, to be subject to the rules of Sections 107 to 114, 116, and 117.

119. Ulterior bequest of such kind not to take effect, unless the condition be strictly fulfilled.

120. Original bequest not affected, if ulterior bequest be invalid.

121. A bequest may be conditioned to cease to have effect on the happening or not happening of a specified uncertain event.

122. Such an event must be one which could legally constitute the condition of a bequest under Section 107.

123. If a bequest be made on the condition that the legatee shall perform a certain act, but no time is fixed, the legacy to go as if the legatee die without such performance, if he indefinitely postpone or render impossible such performance.

124. Legatee required to perform an act in a specified time, must do so unless prevented by fraud, in which case further time to be allowed for the delay so caused.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

125. A direction that a fund bequeathed absolutely shall be applied or enjoyed in a particular manner, is void.

126. A direction that the mode of enjoyment of an absolute bequest is to be restricted to secure a specified benefit for the legatee, is void if such benefit cannot be obtained.

127. If a fund be not absolutely bequeathed, but given for certain purposes, some of which cannot be fulfilled, the unexhausted remnant thereof shall continue a part of the estate.

PART XVIII.

Of Bequests to an Executor.

128. An executor cannot take a legacy unless he show an intention to act as executor.

PART XIX.

Of Specific Legacies.

129. If any specified, distinguished from other property, be bequeathed, the legacy is said to be specific.

130. A sum bequeathed in stocks, funds, or securities, is not specific.

131. A bequest made in general terms of certain amount of stock of any kind, is not specific because the testator had stock of that kind to an equal or greater amount.

132. A money legacy, the payment of which is postpond until some part of the testator's property is disposed of in a certain way, is not specific.

133. A bequest of the residue along with some property not previously bequeathed, not to be deemed a specific legacy.

134. Property specifically bequeathed to two or more persons in succession, to be retained in its existing form, although the value be continually decreasing.

135. If property left to two or more persons be not specifically bequeathed, it shall be sold and invested in such securities as the High Court may direct.

136. In case of insufficiency of assets, a specific legacy not to abate with the general legacies.

PART XX.*

Of Demonstrative Legacies.

137. A legacy directed to be paid out of a particular fund, or out of specified property, is said to be demonstrative.

138. If a portion of a fund be specially bequeathed, and a legacy has to be paid out of the same fund, the demonstrative legacy must be paid out of the general assets so far as the residue of the fund is insufficient.

PART XXI.

Of Ademption of Legacies.

139. If specific property not belonging to the testator at his death, or converted into different property, be bequeathed, the legacy is said to be adeemed and cannot take effect.

140. Demonstrative legacy not to be so adeemed, but must be paid out of the general assets.

141. If a specific bequest be the right to receive something from a third person, and the testator himself receives it, the bequest is adeemed.

142. Receipt by the testator of a part, to operate as an ademption to such extent.

143. Receipt by the testator of a fund, a part of which is specifically bequeathed, to operate as an ademption only to the extent of such portion.

144. Where a portion of a fund is charged with a specific and a demonstrative legacy, and the testator receives a portion, if the remainder is not sufficient to pay both, the specific legacy shall be paid first, and the demonstrative out of the residue and the general assets.

145. If a stock specifically bequeathed does not exist at the time of the testator's death, the legacy is adeemed.

146. If a portion only of such stock do not exist, the legacy is adeemed as regards that portion.

147. A bequest of goods in a certain place, is not adeemed by temporary, unsanctioned, or fraudulent removal.

148. Removal not to act as an ademption, if situation of thing be referred to only to complete description.

149. Bequest of money to be received by the testator from a third person, not adeemed unless testator mix it up with the mass of his property.

150. A specific bequest is not adeemed by reason of the thing bequeathed undergoing a change by operation of law between the date of Will and testator's death.

151. A specific legacy is not adeemed, if a change in the thing bequeathed takes place unsanctioned by the testator.

152. A specific legacy is not adeemed, if stock bequeathed be lent to a third party on condition of replacement, and be replaced.

153. A legacy is not adeemed, if stock specifically bequeathed be sold, and replaced before the testator's death.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

154. If property specifically bequeathed be subject to any pledge or incumbrance, a legatee must accept the bequest subject thereto.

155. A testator's title to things bequeathed to be completed at the cost of his estate.

156. The revenue or rent of immoveable property bequeathed to be made good to the day of testator's death.

157. A call or payment due at time of testator's death in respect of a specific bequest of stock in a Company, shall be borne by his estate; but if due after his death, by the accepting legatee.

PART XXIII.

Of Bequests of Things described in General Terms.

158. If a thing bequeathed be described in general terms, the executor shall purchase for the legatee what may reasonably be considered to answer the description.

* Act IX., 1866, is to be read with, and taken as part of, this Act.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

159. If the interest or produce of a fund be bequeathed without any limitation of time, both principal and interest shall belong to legatee.

PART XXV.

Of Bequests of Annuities.

160. Unless the contrary appear, annuities created by a Will are to enjoyed during life only.

161. If an annuity be directed to be provided out of property or the proceeds of property, or out of money bequeathed for the purpose, the legatee is entitled either to have an annuity purchased, or to receive the money so appropriated.

162. An annuity shall abate in the same proportion as legacies, if the assets be insufficient.

163. If there is an annuity and a residuary gift, the whole of the annuity must be satisfied before any part of the residue is paid to the residuary legatee.

PART XXVI.

Of Legacies to Creditors and Portioners.

164. If there be a legacy to a creditor, but not apparently as a satisfaction of a debt, the creditor is entitled to the legacy as well as to the amount of the debt.

165. A legacy to a child for whom its parent is bound to provide a portion, shall not be regarded as a satisfaction of such portion, unless so intimated by the Will.

166. A bequest is not adeemed by a subsequent provision for the legatee.

PART XXVII.

Of Election.

167. If the owner of a thing does not confirm the deposition of it made by a testator who has no right to dispose of it, such owner to give up all benefit under the Will.

168. In such case the value of the gift shall be a charge on the interest in the Will so relinquished by the owner of the thing attempted to be disposed of.

169. The testator's belief as to his ownership is immaterial.

170. For the purpose of election, a bequest for a man's benefit is the same as a bequest to himself.

171. A person benefiting indirectly shall not be put to election.

172. A person taking under a Will as an individual, may in another character elect to take in opposition to it.

Exception to Sections 167 to 172. A legacy in lieu of a thing belonging to the legatee, cannot be taken if the legatee claims that thing, but such legatee is not bound to relinquish any other benefit under the Will.

173. The acceptance of a benefit with the knowledge of the right of election and of the circumstances of the case, or a waiver of enquiry into such circumstances, constitutes election.

174. If a legatee enjoy benefits for two years without expressing dissent, such knowledge or waiver of enquiry shall be presumed.

175. Knowledge or waiver may be inferred, if a legatee by any act render election impossible.

176. A testator's representatives may after one year require a legatee to elect. On non-compliance within a reasonable time, a legatee to be deemed to have elected to confirm.

177. Election to be postponed in case of disability.

PART XXVIII.

Of Gifts in Contemplation of Death.

178. A gift of moveable property may be made in comtemplation of death, and may be resumed by the giver. Such gift not to take effect, if the person recovers or survives the donee.

PART XXIX.

Of Grant of Probate and Letters of Administration.

179. An executor or administrator shall be the legal representative, and the property shall vest in him.

180. Letters of administration may be granted where a Will has been proved and deposited in a Court abroad, if an authenticated copy of the Will be produced.

181. Probate shall be granted only to the executor appointed by the Will.

182. The appointment may be express or implied.

183. Probate shall not to be granted to a minor or lunatic, nor to a married woman without her husband's consent.

184. Probate may be granted to several executors simultaneously or at different times.

185. Separate probate may be granted to an executor, if a Codicil be discovered after grant of probate of Will. Probate of Will shall be revoked, and fresh probate be granted of both, if such Codicil appoint different executors.

186. If there be several executors, representation to accrue to survivor.

187. No right as executor or legatee can be established unless probate or letters of administration has been granted.

188. Probate establishes Will and renders valid intermediate acts of executor.

189. Administration shall not to be granted to a minor or lunatic, nor to a married woman without her husband's consent.

190. Right to letters cannot be established unless administration be granted.

191. Letters of administration entitle the administrator to all rights of intestate from testator's death.

192. Intermediate acts tending to diminish or damage estate are not rendered valid.

193. Administration shall not be granted to another without issue of citation calling upon the executor to accept or renounce executorship. When one or more of several executors have proved a Will, letters may be granted without citation on death of survivor.

194. Renunciation once made shall preclude an executor from afterwards applying for probate.

195. If an executor renounce or fail to accept within the time limited, administration may be granted to the person entitled thereto in case of intestacy.

196. Administration to the whole or remainder of an estate may be granted to universal or residuary legatee on failure or refusal of executor.

197. Representative of residuary legatee has in such case the same right to administer.

198. On failure of executor and residuary legatee, the person entitled in case of intestacy, or any other legatee, or a creditor, may prove the Will and receive letters of administration.

199. Administration shall not be granted to other than an universal or residuary legatee, without a citation calling on the next-of-kin to accept or refuse.

200. Connection by marriage or consanguinity, in the order mentioned below, are entitled to administration of an intestate's estate.

201. Administration shall be granted to the widow unless excluded from personal disqualification or want of interest in estate.

202. Persons who would be entitled if there were no widow, may be associated with her in the administration.

203. If there be no widow, or she be excluded, administration to be committed to the person who would be entitled to the estate in case of intestacy; but if the mother be one of those so entitled, administration to be committed solely to her.

204. Kin of equal degree equally entitled.

205. Husband has same right of administration to wife's estate, as a widow has of her husband's.

206. In absence of connections entitled by marriage or consanguinity, administration may be granted to a creditor.

207. Administration to the estate of a person leaving property in India to be granted as above, although person be a domiciled inhabitant of another country.

Of Limited Grants.

(a.) *Grants limited in duration.*

208. Limited probate may be granted of a copy or draft of a Will, if the Will be lost, mislaid, or destroyed, otherwise than by an act of the executor, after the testator's death.

209. Probate may be granted of the contents of a Will as established by evidence, if the original be lost or destroyed and no copy or draft be preserved.

210. Limited probate may be granted of a copy of a Will, if the Will be in possession of a person out of the Province who refuses or neglects to deliver it up.

211. Limited administration may be granted, if the Will be not forthcoming, but there is reason to believe that one exists.

(b.) *Grants for the use and benefit of others having right.*

212. Administration may be granted to the Attorney of an absent executor, limited till probate or letters of administration be granted to himself.

213. Administration, limited as above, may be granted to the Attorney of an absent person to whom, if present, letters might be granted.

214. Administration, limited as above, may be granted to the Attorney of an absent person entitled to administration in case of intestacy, if no person equally entitled be willing to act.

215. If a minor be also executor or residuary legatee, administration may be granted to his legal guardian or other fit person during minority.

216. If there be two or more minor executors or residuary legatees, grant to be limited till one of them attains majority.

217. If the sole executor, or universal or residuary legatee, or person otherwise entitled to administer, be a lunatic, letters to be granted to the person having care of lunatic's estate.

218. Court may appoint administrator subject to its own control, if any suit be pending touching the validity of the Will, or for obtaining or revoking probate or letters of administration.

(c.) *For special purposes.*

219. Probate and letters to be limited to the purpose specified in the Will.

220. Letters granted to an Attorney to be limited to the purpose for which he is authorized to prove the Will.

221. If a person die leaving trust property, or property in which he has no beneficial interest, administration may be granted to person beneficially interested, if there be no general representative of the deceased.

222. Letters may be granted for the purpose of representation in a suit, if executor, &c., be unable or unwilling to act.

223. Court may grant letters to any person for the purpose of a suit against executor absent from the Province at the expiration of 12 months from date of probate.

224. Court may grant limited administration to any person to collect property and give discharges for debts.

225. Court may, if necessary, in case of absence, or unwillingness, or inabilty to act, of executor, grant administration (limited or otherwise) to a fit person other than the person entitled thereto.

(d.) *Grants with exception.*

226. Probate or letters of administration with the Will annexed may be granted, subject to an expection.

227. Administration may be granted subject to an exception.

(e.) *Grants of the Rest.*

228. If probate or letters of administration, with or without the Will annexed, be granted subject to an exception, person so entitled may take out probate or letters of administration of the rest of the estate.

(f.) *Grants of effects unadministered.*

229. If executor die leaving portion of estate unadministered, new representative may be appointed for the purpose.

230. In such case, Court to be guided by the Rules applicable to original grants.

231. On expiration of limited grant, fresh letter may be granted for unadministered portion of estate.

(g.) *Alteration in grants.*

232. Court may rectify errors in name and description, time and place of death, or purpose of limited grants.

233. Codicil subsequently discovered may be added to grant, which shall be altered accordingly.

(h.) *Revocation of grants.*

234. Grant may be revoked or annulled for just cause.

PART XXXI.

Of the Practice in Granting and Revoking Probates and Letters of Administration.

235. District Judge may grant and revoke probates and letters in cases within his own District.

236. Such Judge to have the like powers and authorities in granting probates and letters as in Civil suits.

237. Person refusing to produce, or to attend and answer questions regarding testamentary papers, liable to punishment under the Penal Code as if he were a party to a Civil suit.
238. Proceedings to be regulated, as far as practicable, by the Code of Civil Procedure.
239. Pending grant of probate or the constitution of an administrator, Judge may appoint an Officer to take and keep possession of property within his jurisdiction.
240. Probate or letters may be granted by the District Judge, if at the time of death testator had his fixed abode, or any moveable or immoveable property, within his jurisdiction.
241. Judge of District in which deceased had no fixed abode may refuse to grant probate, or may grant administration absolutely, or limited to the property within his jurisdiction.
242. Probate or letters to have effect throughout the Province, and to be conclusive as to the representative title against, and full indemnity to, all debtors and persons holding property of deceased.
243. Grant of probate not to be impeached unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.
244. Application for probate to state time of testator's death, due execution of Will, and appointment of applicant as executor. If to the District Judge, application to state further that deceased, at time of death, had his fixed abode or some property within the jurisdiction.
245. Application to be accompanied by a translation, if the Will be not in English.
246. Application for letters of administration to state time and place of testator's death, his relatives, the petitioner's right, the probable amount of assets, and that deceased left some property within the jurisdiction.
247. Petition for probate or letters to be subscribed and verified.
248. Application for probate to be verified, if possible, by one of the witnesses.
249. Person making false averment liable to the punishment for giving or fabricating false evidence.
250. District Judge may examine petitioner, and call upon persons interested to witness the proceeding.
251. Caveats against probate or administration may be lodged with District Judge.
252. Form of Caveat.
253. No proceeding for granting probate or administration to be taken, till after notice to the person entering Caveat.
254. Probate to be granted under seal in the form prescribed.
255. Administration to be granted, with or without the Will annexed, under seal in the form annexed.
256. Person obtaining administration to give a bond for due collection, getting in, and administering of the estate.
257. If such engagement be not kept, Court may assign bond to some person, as trustee for all persons interested, for the purpose of suing thereon.
258. Probate not to be granted till after 7 days, nor letters till after 14 days, from the death.
259. Local Government to make Rules for the presentation and inspection of Wills filed in the District Judge's Court.
260. Until revocation of probate or letters, no person but the grantee to sue or act as representative of the deceased.
261. Contested proceeding before the District Judge to be in the form of a suit under the Code of Civil Procedure.
262. Payments made before revocation of probate or letters to act as a legal discharge to the person paying. Executor or administrator to have the same right of reimbursing himself, as his successor would have.
263. Orders of District Judge to be subject to appeal to the High Court.
264. High Court to have concurrent jurisdiction with District Judge.

PART XXXII.

Of Executors of their own Wrong.

265. Where there is no executor or administrator, person intermeddling with estate, except for purpose of preservation or providing for the funeral or the necessities of the family, or ordinary dealing with goods of deceased received from another, makes himself an executor of his own wrong.
266. Executor of his own wrong answerable to extent of the assets received by him.

PART XXXIII.

Of the Powers of an Executor or Administrator.

267. Executor or administrator may sue and distrain for rents in the same way as deceased may have done.
268. Demands and rights of action in favor of or against deceased (except for defamation, assault, or personal injuries not causing death, and except where the relief sought would be nugatory) survive to and against executors or administrators.
269. Executor or administrator may dispose of deceased's property.
270. If executor or administrator purchase any such property, sale voidable at instance of any person interested.
271. Unless the contrary appear, any one of several executors who has proved the Will may exercise the powers of all.
272. Powers of several executors to vest in survivor.
273. Administrator of unadministered effects to have the powers of original executor or administrator.
274. An administrator during minority has full powers.
275. A married executrix or administratrix has full powers.

PART XXXIV.

Of the Duties of an Executor or Administrator.

276. Funeral to be suitable to condition of deceased.
277. Executor or administrator to exhibit in Court, within 6 months of grant of probate or letters, an inventory and account of the property, and within one year a further account showing the assets received, and the manner of their disposal.
278. To collect, with reasonable diligence, the property and debts.
279. Funeral expenses, medical attendance, and board and lodging for one month previous to death, to be paid before debts.
280. Expenses of obtaining probate or administration and costs of necessary judicial proceedings, to be paid next after the above.
281. Wages of labourers, artisans, and domestic servants for 3 months preceding death, to be next paid, and then other debts.
282. Except as above, no creditor to have priority, but all debts to be paid rateably as far as assets extend.

283. If domicile not in India, application of moveable property to the payment of debts, to be regulated by the law of the country of domicile.
284. Creditor receiving part payment under preceding Section, not to share in proceeds of immoveable property without bringing previous payment into account.
285. All debts to be paid before any legacy.
286. If estate be subject to contingent liabilities, legacy not to be paid without a sufficient indemnity to meet such liabilities.
287. General legacies to abate in equal proportions; if assets, after payment of debts, necessary expenses, and specific legacies, be not sufficient.
288. If assets sufficient to pay debts and expenses, the subject of a specific legacy to be delivered without abatement.
289. Demonstrative legatee to have preferential claim to be paid out of the fund specified; and after exhaustion thereof, to rank for the remainder as an ordinary legatee.
290. If assets insufficient to pay debts and specific legacies, the latter to abate rateably.
291. Legacies for life and annuities to be treated as general legacies for purposes of abatement.

PART XXXV.

Of the Executor's Assent to a Legacy.

292. Assent of executor necessary to complete legatee's title.
293. Assent to a specific bequest a sufficient transfer, unless the circumstances require transfer in a particular manner. Such assent may be verbal, and may be express or implied.
294. If executor impose a rightful condition to a legacy, there is no assent unless it be performed.
295. Executor's assent necessary to his own legacy.
296. Assent to legacy gives effect to it from the testator's death.
297. Executor not bound to pay or deliver any legacy till one year from testator's death.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

298. Annuity with no time fixed for commencement, to begin from testator's death, and first payment to be made a year after.
299. Annuity made payable quarterly or monthly, to be due at expiration of first quarter or month, but executor not bound to pay till end of the year.
300. If annuity be directed to be paid at the expiration of a certain time, or on a day certain, successive payments to be made on the aniversary of the day of first payment. Apportioned share to be paid, if annuitant die between times of payment.

PART XXXVII.

Of the Investment of Funds to Provide for Legacies.

301. In case of a life legacy, sum bequeathed to be invested in securities, and proceeds paid to legatee as they accrue due.
302. If there be a general legacy to be paid at a future time, executor to invest in securities a sum sufficient to meet it. Intermediate interest to form part of residue.
303. If an annuity be given without a fund being appropriated for the purpose, a Government annuity, if obtainable, to be purchased, or a sufficient sum to be invested as above.
304. Executor not bound to invest any amount to meet a contingent bequest, but the whole residue may be transferred to residuary legatee on his giving security to meet such legacy.
305. If the residue be bequeathed to a person for life, any portion thereof not invested to be converted into money and invested.
306. If such legacy be directed to be invested in particular securities, portion of estate not in such securities to be converted into money and so invested.
307. Such investments to be made by the executor at his discretion, but in the interim legatee to receive interest at 4 per cent. upon the market value of the property not so invested.
308. If minor legatee be entitled under the Will to immediate possession, delivery to be given to the District Judge or Court of Wards, as the case may be, who shall invest in Government Securities, for the benefit of such minor.

PART XXXVIII.

Of the Produce and Interest of Legacies.

309. Legatee of a specific legacy, not being contingent in its terms, entitled to produce thereof from testator's death.
310. Legatee of a residuary bequest not contingent, entitled to produce of residuary fund from testator's death.
311. If no time be fixed for payment, interest to run from one year after testator's death, unless legacy be in satisfaction of a debt, or the testator were a parent or more remote ancestor of the legatee, or the legacy be for the maintenance of a minor; in which cases interest to run from testator's death.
312. If time of payment be fixed, interest to run from such date, the interest up to such date forming part of residue; but if legatee be a minor, and testator his parent or more remote ancestor, and no sum be given for maintenance, interest to run from testator's death.
313. Interest to be at 4 per cent.
314. No interest or arrears of annuity within first year.
315. Interest to run from testator's death on money to be invested for an annuity.

PART XXXIX.

Of the Refunding of Legacies.

316. If assets prove insufficient, executor may demand refund of legacy under order of Court.
317. But not if executor voluntarily pay legacy.
318. If further time be allowed under Section 124 for performance of a condition, and executor have distributed assets, legacy may be claimed from those to whom it has been paid.
319. Legatees may be called upon to refund, if executor be obliged to discharge a debt of which he had no previous notice.
320. Executor not to be liable for claims subsequently made, if he distribute the assets after the expiration of due notice; but creditor may follow assets in the hands of the receivers thereof.
321. Creditor may, within 2 years after testator's death, or one year after payment of legacy, call upon legatee to refund.
322. An unpaid legatee, or one who has been compelled to refund, cannot oblige a satisfied legatee to refund, if assets were originally sufficient, but subsequently became deficient by waste.

323. If assets were insufficient, unsatisfied legatee to proceed first against executor, but if he be insolvent or not liable to pay, he may oblige each satisfied legatee to refund in proportion.
324. Such refund not to exceed the sum by which satisfied legacy ought to have been reduced.
325. Refunding to be without interest.
326. After payment of debts and legacies, residue to be paid to residuary legatee, if any.

PART XL.

OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

327. Executor misapplying estate, or subjecting it to loss or damage, to make it good.
328. Executor liable for neglect to get in any part of deceased's property.

PART XLI.

MISCELLANEOUS.

329. Repealed.
330. Rights, duties, and privileges not affected by this Act. Magistrates to retain property of persons dying, until grant of probate or letters of administration.
331. Act not to apply to any Will made, or intestacy occurring, before 1st January, 1866, nor to Hindus, Mahomedans, or Buddhists; nor the 4th Section to marriages contracted before that date.
332. Governor-General in Council may exempt from the operation of this Act, or of any portion of it, any race, sect, or tribe to whom its provisions may appear unsuited.

An Act to amend and define the law of Intestate and Testamentary Succession in British India.

Preamble.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India; It is enacted as follows:

PART I.

PRELIMINARY.

Short Title.

I. This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

II. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

Interpretation Clause.

III. In this Act, unless there be something repugnant in the subject or context—

Number.

Words importing the singular number include the plural; words importing the plural number include the singular;

Gender.

and words importing the male sex include females.

"Person."

"Person" includes any Company or Association, or body of persons, whether incorporated or not.

"Year." "Month."

"Year" and "Month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property."

"Moveable property" means property of every description except immoveable property.

"Province."

"Province" includes any division of British India having a Court of the last resort.

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vict., chap. 106 *(An Act for the better Government of India)* other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person.

"Minor." "Minority."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Will."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Codicil."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Probate."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Executor."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

"Administrator."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

"Local Government." "High Court."

IV. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

Interests and powers not lost nor acquired by marriage.

PART II.

Of Domicile.

V. Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Law regulating succession to a deceased person's immoveable and moveable estate respectively.

Illustrations.

(*a*.) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b*.) A, an Englishman, having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

One domicile only affects succession to moveables.

VI. A person can only have one domicile for the purpose of succession to his moveable property.

Domicile of origin of person of legitimate birth.

VII. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

Domicile of origin of illegitimate child.

VIII. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

IX. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

X. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or iMlitary Service, or in the exercise of any profession or calling.

Illustrations.

(*a.*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b.*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c.*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d.*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e.*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f.*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g.*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

XI. Any person may acquire a domicile in British India by making and depositing in some office in British India (to be fixed by the local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

XII. A person who is appointed by the Government of one

Domicile not acquired by residence merely as the representative of a foreign Government, or by residence with him as part of has family or as a servant.

country to be its ambassador, consul, or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

XIII. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

XIV. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married, or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

XV. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

XVI. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

XVII. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

XVIII. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

XIX. If a man dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

Of Consanguinity.

Kindred or consanguinity.

XX. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

XXI. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

XXII. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

XXIII. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father, and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his life-time, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindred.

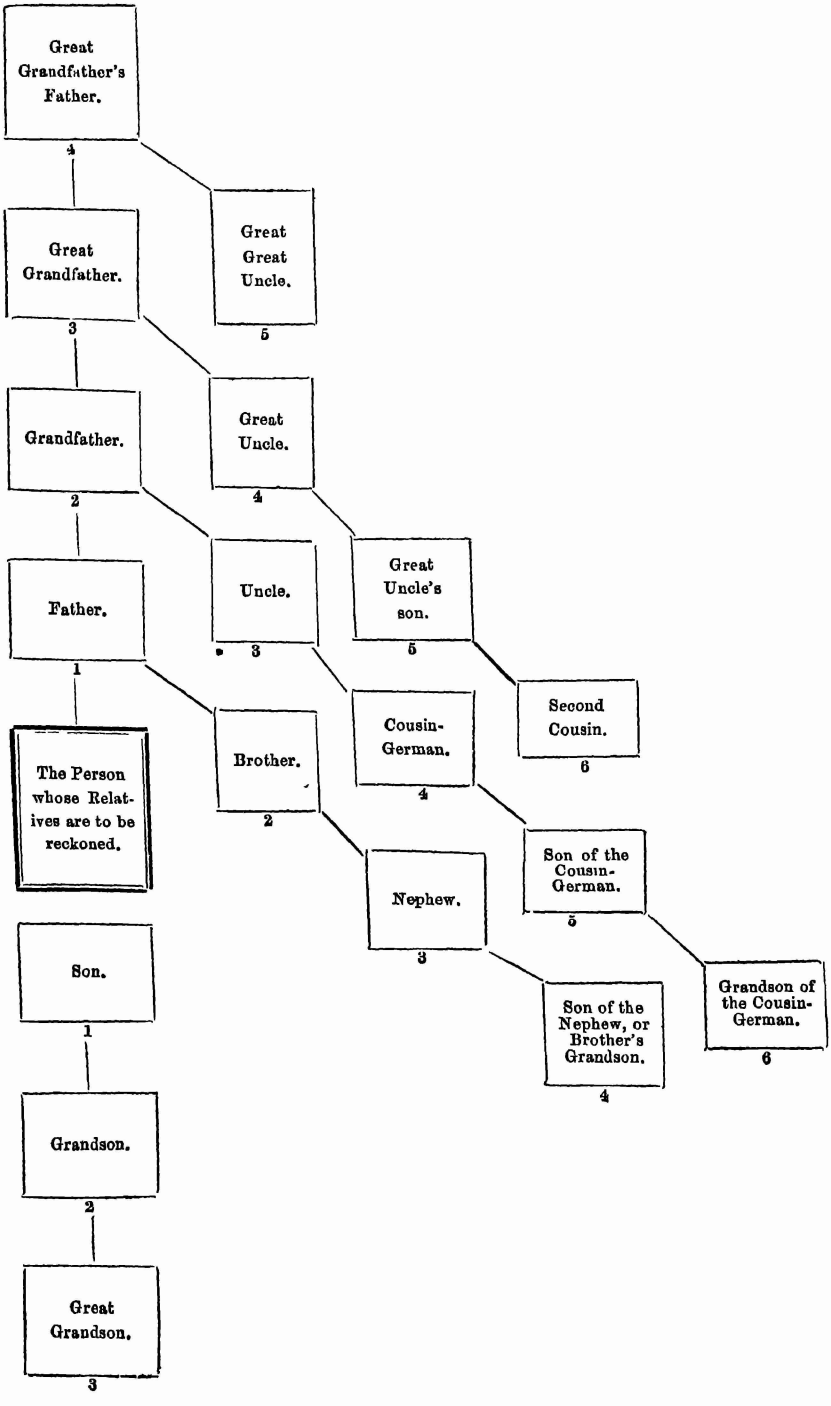
XXIV. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor, the grandfather: and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, that is, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.

OF INTESTACY.

As to what property a deceased person is considered to have died intestate.

XXV. A man is considered to die intestate in respect of all propety of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(*a.*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b.*) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c.*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d.*) A has bequeathed 1,000*l.* to B, and 1,000*l.* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l.* and no other property, C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l.*

Devolution of such property.

XXVI. Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Explanation.—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

XXVII. Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left no widow, and where he has left no kindred.

XXVIII. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

PART V.

OF THE DISTRIBUTION OF AN INTESTATE'S PROPERTY.

(*a.*) *Where he has left lineal descendants.*

Rules of distribution.

XXIX. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Where the intestate has left a child or children only.

XXX. Where the intestate has left surviving him a child or children, but no more remote lineal descendants through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left no child, but a grand-child or grand-children.

XXXI. Where the intestate has not left surviving him any child, but has left a grand-child or grand-children, and no more remote descendant through a deceased grand-child, the property shall belong to his surviving grand-child, if there be only one, or shall be equally divided among all his surviving grand-children.

Illustrations.

(*a.*) A has three children, and no more: John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grand-children and no descendant of any deceased grand-child. Each of his grand-children shall have one-ninth.

(*b.*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grand-children, the children of John and Mary.

(*c.*) A has two children, and no more: John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

Where the intestate has left only great-grand-children, or lineal descendants in a remoter degree.

XXXII. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grand-children to him, or are all in a more remote degree.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the more remote descend are dead.

XXXIII. If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allowed to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(*a.*) A had three children, John, Mary, and Henry. John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*b.*) A left no child, but left eight grand-children, and two children of a deceased grand-child. The property is divided into nine parts, one of which is allotted to each grand-child; and the remaining one-ninth is equally divided between the two great-grand-children.

(*c.*) A has three children, John, Mary, and Henry. John dies, leaving four children, and one of John's children dies, leaving two children. Mary dies, leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's surviving children, and the remaining part is equally divided between John's two grand-children.

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(b.) Where the Intestate has left no lineal descendants.

Distribution where the intestate has left no lineal descendants.

XXXIV. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows :—

Where intestate's father is living.

XXXV. If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead, but his mother, brother, and sister are living.

XXXVI. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother and sister shall succeed to the property in equal shares.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister, Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

Where intestate's father is dead, and his mother, a brother or sister, and children of, any deceased brother or sister are living.

XXXVII. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's life-time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A, the intestate, leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father, but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead, and his mother and the children of any deceased brother or sister are living.

XXXVIII. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A, the intestate, leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased, brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother, nor sister, nor nephew.

XXXIX. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant, nor father, nor mother.

XL. Where the intestate has left neither lineal descendant, nor father nor mother, the property is divided equally between his brothers and sisters, and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendants, brother, nor sister.

XLI. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations.

(*a.*) A, the intestate, has left a grand-father and grand-mother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*b.*) A, the intestate, has left a great-grand-father or great-grand-mother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him, All of these, being in the third degree, shall take equal shares.

(*c.*) A, the intestate, left a great-grand-father, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these, being in the third degree, shall take equal shares.

(*d.*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

Children's advancements not to be brought into hotchpot.

XLII. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

Rights of a widower and of a widow respectively.

XLIII. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

No rights to property not comprised in an ante-nuptial settlement, to be acquired by marriage between a person domiciled and a person not domiciled in British India.

XLIV. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Settlement of minor's property in contemplation of marriage.

XLV. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

PART VII.

OF WILLS AND CODICILS.

Persons capable of making Wills.

XLVI. Every person of sound mind and not a minor may dispose of his property by Will.

Explanation 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

Explanation 2.—Persons who are deaf, or dumb, or blind, are not thereby incapacitated for making a Will, if they are able to know what they do by it.

Explanation 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(*a.*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favor it would be proper that he should make his Will. A cannot make a valid Will.

(*b.*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c.*) A, being very feeble and debilitated, but capable of exercising a judgment as to a proper mode of disposing of his property, makes his Will. This is a valid Will.

Testamentary Guardian.

XLVII. A father, whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Will obtained by fraud, coercion, or importunity.

XLVIII. A Will, or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Illustrations.

(*a.*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, (A's) favor. Such Will has been obtained by fraud, and is invalid.

(*b.*) A, by fraud and deception, prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c.*) A being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d.*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favor of C. B, in consequence makes a bequest in favor of C. The bequest is void, the making of it having been caused by coercion.

(*e.*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent makes a Will dictated by B. It appears that he would not have executed the Will, but for fear of B. The Will is invalid.

(*f.*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g.*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h.*) A, with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

A Will may be revoked or altered.

XLIX. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

PART VIII.

Of the Execution of Unprivileged Wills.

Execution of unprivileged Wills.

L. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules :—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

LI. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

PART IX.

Of Privileged Wills.

Privileged Will.

LII. Any soldier, being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

Illustrations.

(*a.*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b.*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c.*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d.*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(*e.*) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(*f.*) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Making and execution of privileged Wills.

LIII. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

First.—The Will may be written wholly by testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth.—If the soldier or mariner shall, in the presence of two witnesses, have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his life-time, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration, and Revival of Wills.

Effects of gift to attesting witness.

LIV. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband; but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest nor by being executor.

LV. No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Revocation of Will by testator's marriage.

LVI. Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Power of appointment defined.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Revocation of unprivileged Will or Codicil.

LVII. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Illustrations.

(*a.*) A has made an unprivileged Will. Afterwards, A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b.*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will which purports to revoke his unprivileged Will. This is a revocation.

Effect of any obliteration, or interlineation, or alteration in an unprivileged Will.

LVIII. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof, shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

LIX. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

LX. No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

PART XI.

Of the Construction of Wills.

Wording of Will.

LXI. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Enquiries to determine questions as to object or subject of Will.

LXII. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*a.*) A, by his Will, bequeaths 1,000 Rupees to his eldest son or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b.*) A, by his Will, leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c.*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

LXIII. Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*a.*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b.*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only broth[illegible] named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c.*) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d.*) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(*e.*) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f.*) The testator bequeaths "1,000 Rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 Rupees.

When words may be supplied.

LXIV. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred Rupees" to his daughter B. A shall take a legacy of five hundred Rupees.

Rejection of erroneous particulars in description of subject.

LXV. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(*a.*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(*b.*) The testator bequeaths to A "his zemíndárí of Rampore." He had an estate at Rampore, but it was a talook and not a zemíndárí. The talook passes by this bequest.

When part of description may not be rejected as erroneous.

LXVI. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under Section 65 are to be considered as struck out of the Will.

Illustrations.

(*a.*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L, as were in the occupation of X.

(*b.*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 beegahs of land." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

LXVII. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(*a*.) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*.) A, by his Will, leaves to "B his estate called Sultanpur Khurd. It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

LXVIII. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(*a*.) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 Rupees to "his aunt Caroline" and 1,000 Rupees to "his cousin Mary," and afterwards bequeaths 2,000 Rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under Section 76.

(*b*.) A bequeaths 1,000 Rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*.) A bequeaths to B Rupees, or "his estate of " Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning to be collected from entire Will.

LXIX. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Illustrations.

(*a*.) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*.) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

When words may be understood in a restricted sense, and when in a sense wider than usual.

LXX. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

Illustrations.

(*a*.) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b.*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c.*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

LXXI. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected if reasonable construction can be put on it.

LXXII. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

LXXIII. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intent to be effectuated as far as possible.

LXXIV. The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under Section 105, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

LXXV. Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

Illustrations.

(*a.*) The testator by the first clause of his Will leaves his estate of Râmnagur "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(*b.*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will, &c., void for uncertainty.

LXXVI. A Will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

Word shall refer to property answering that description at testator's death.

LXXVII. The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power executed by general bequest.

LXXVIII. Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which

such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to the objects of a power in default of appointment.

LXXIX. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

Bequest to "heir," &c., of a particular person without qualifying terms.

LXXX. Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest-of-kin, or "next-of-kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed, as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(*a.*) A leaves his property "to his own nearest relation." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b.*) A bequeaths 10,000 Rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it, if it had formed part of A's unbequeathed property.

(*c.*) A leaves his property to B; but if B dies before him, to B's next-of-kin. B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*d.*) A leaves 10,000 Rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

LXXXI. Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

LXXXII. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

LXXXIII. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

(*a.*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b.*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c.*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d.*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e.*) Property is bequeathed to A or his nearest-of-kin. A dies in the life-time of the testator. Upon the death of the testator, the bequest to A's nearest-of-kin takes effect.

(*f.*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's life-time. Upon A's death the bequest to the heirs of B takes effect.

(*g.*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's life-time. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

LXXXIV. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(*a.*) A bequest is made—

to A and his children.
to A and his children by his present wife.
to A and his heirs.
to A and the heirs of his body.
to A and the heirs male of his body.
to A and the heirs female of his body.
to A and his issue.
to A and his family.
to A and his descendants.
to A and his representatives.
to A and his personal representatives.
to A, his executors, and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b.*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c.*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

LXXXV. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

LXXXVI. The word "children" in a Will applies only to lineal descendants in the first degree; the word "grand-children" applies only to lineal descendants in the second degree of the person whose "children," or "grand-children," are

spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german," apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grand-children of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words denoting relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

LXXXVII. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Illustrations.

(*a.*) A, having three children, B, C, and D, of whom B and C are legitimate and and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b.*) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c.*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d.*) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(*e.*) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had, at the date of the Will, acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f.*) A makes a bequest in favor of his child by a certain woman, not his wife. B had acquired, at the date of Will, the reputation of being the child of A by the woman designated. B takes the legacy.

(*g.*) A makes a bequest in favor of his child to be born of a woman who never becomes his wife. The bequest is void.

(*h.*) A makes a bequest in favor of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

LXXXVIII. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first, if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word Will does not include a Codicil.

Illustrations.

(*a.*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b.*) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c.*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 Rupees only.

(*d.*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 Rupees. B is entitled to 11,000 Rupees.

(*e.*) A, by his Will, bequeaths to B 5,000 Rupees, and by a Codicil to the Will he bequeaths to him 5,000 Rupees. B is entitled to receive 10,000 Rupees.

(*f.*) A, by one Codicil to his Will, bequeaths to B 5,000 Rupees, and by another Codicil, bequeaths to him 6,000 Rupees. B is entitled to receive 11,000 Rupees.

(*g.*) A, by his Will, bequeaths "500 Rupees to B, because she was his nurse," and in another part of the Will bequeaths 500 Rupees to B, "because she went to England with his children." B is entitled to receive 1,000 Rupees.

(*h.*) A, by his Will bequeaths to B the sum of 5,000 Rupees, and also, in another part of the Will, an annuity of 400 Rupees. B is entitled to both legacies.

(*i.*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and also bequeaths to him the sum of 5,000 Rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 Rupees, and takes a contingent interest in another sum of 5,000 Rupees.

Constitution of residuary legatee.

LXXXIX. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(*a.*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b.*) A makes his Will, with the following passage at the end of it: "I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(*c.*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which a residuary legatee is entitled.

XC. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under Section 105 and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zemíndári, which belongs to him at the time of his death. B is entitled to the two legacies and the zemíndári as part of the residue.

Time of vesting of a legacy in general terms.

XCI. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

In what case a legacy lapses.

XCII. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

Illustrations.

(*a.*) The testator bequeaths to B "500 Rupees which B owes him." B dies before the testator; the legacy lapses.

(*b.*) A bequest is made to A and his children. A dies before the testator, or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c.*) A legacy is given to A, and in case of his dying before the testator, to B, A dies before the testator. The legacy goes to B.

(*d.*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the life-time of the testator; B survives the testator. The bequest to B takes effect.

(*e.*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the life-time of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f.*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before testator.

XCIII. If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

XCIV. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

XCV. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

When a bequest to testator's chi'd or lineal descendant does not lapse on his death in testator's life-time.

XCVI. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the life-time of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his absolute use and benefit. B dies before A, leaving a son C, who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for the benefit of B does not lapse by A's death in testator's life-time.

XCVII. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's life-time, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

XCVIII. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*a.*) A bequeaths 1,000 Rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b.*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c.*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the life-time of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d.*) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E. and F, were born to B. C and E died in the life-time of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e.*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B. D and E have survived B. One-third of A's lands belongs to D. E, and the representatives of C in equal shares.

(*f.*) A bequeaths 1,000 Rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g.*) A bequeaths 1,000 Rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator B had two children living, D and E. After the death of the testator, but in the life-time of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h.*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D, and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

OF VOID BEQUESTS.

Bequest to a person by a particular description, who does not exist at testator's death.

XCIX. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(*a.*) A bequeaths 1,000 Rupees to the eldest son of B. At the death of the testator, B had no son. The bequest is void.

(*b.*) A bequeaths 1,000 Rupees to B for life, and after his death to the eldest son of C. At the death of the testator C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c.*) A bequeaths 1,000 Rupees to B for life, and after his death to the eldest son of C. At the death of the testator C had no son. Afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d.*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e.*) A bequeaths 1,000 Rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator C has no son, but a son is afterwards born to him during the life of B, and is alive at B's death. C's son is entitled to the 1,000 Rupees.

Bequest to a person not alive at the testator's death subject to a prior bequest.

C. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(*a.*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(*b.*) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters, some of whom were not in existence at the

testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(*c.*) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled, so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(*d.*) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund; that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

CI. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the life-time of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(*a.*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the life-time of A and B, and the minority of the sons of B. The bequest after B's death is void.

(*b.*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the life-time of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25, necessarily falls within his own life-time. The bequest is valid.

(*c.*) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(*d.*) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 *and* 101.

CII. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Illustrations.

(*a.*) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(*b.*) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, and D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (*a*). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Section 100, 101, *or* 102.

CIII. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(*a.*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b.*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Direction for accumulation.

CIV. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a.*) The Will directs that the sum of 10,000 Rupees shall be invested in Government Securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 Rupees at the end of the year from the testator's death.

(*b.*) The Will directs that 10,000 Rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him A is entitled to receive 10,000 Rupees at the end of a year from the testator's death.

(*c.*) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d.*) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator A has no son. The bequest is void.

testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(*c.*) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled, so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(*d.*) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund; that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

CI. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the life-time of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(*a.*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the life-time of A and B, and the minority of the sons of B. The bequest after B's death is void.

(*b.*) A fund is bequeathed to A for his life. and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the life-time of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25, necessarily falls within his own life-time. The bequest is valid.

(*c.*) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(*d.*) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 *and* 101.

CII. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Illustrations.

(*a.*) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(*b.*) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, and D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (*a*). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Section 100, 101, *or* 102.

CIII. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(*a.*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b.*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Direction for accumulation.

CIV. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a.*) The Will directs that the sum of 10,000 Rupees shall be invested in Government Securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 Rupees at the end of the year from the testator's death.

(*b.*) The Will directs that 10,000 Rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him A is entitled to receive 10,000 Rupees at the end of a year from the testator's death.

(*c.*) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d.*) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator A has no son. The bequest is void.

(*e.*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequest to uses, religious or charitable.

CV. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

Illustration.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and preferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of Vesting of Legacies.

Date of vesting of legacy when payment or possession postponed.

CVI. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such case the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*a.*) A bequeaths to B 100 Rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b.*) A bequeaths to B 100 Rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c.*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d.*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e.*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f.*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B, and C, subject to be devested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

CVII. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(*a.*) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(*b.*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(*c.*) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not then be living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d.*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e.*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f.*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g.*) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h.*) An estate is bequeathed to A if he shall pay 500 Rupees to B. A's interest in the bequest is contingent until he has paid 500 Rupees to B.

(*i.*) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j.*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k.*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l.*) A bequeaths to B 500 Rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested

(*m.*) A bequeaths to B 500 Rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

CVIII. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

Onerous bequest.

CIX. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

A having shares in (X), a properous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, beqeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

One of two independent bequests to same person may be accepted and the other refused.

CX. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

CXI. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Illustrations.

(*a.*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*b.*) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator, or dies in his life-time leaving a child, the legacy to B does not take effect.

(*c.*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death to B. A attains the age of 18. The legacy to B does not take effect.

(*d.*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning "in case B shall die without children during the life-time of A."

(*e.*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the life-time of A."

Bequest to such of certain persons as shall survive at some period not specified.

CXII. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Illustrations.

(*a.*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b.*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c.*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the life-time of A. The legacy goes to the representative of B.

(*d.*) Property is bequeathed to A for life, and after his death to B and C, with a direction that, in case either of them dies in the life-time of A, the whole shall go to the survivor. B dies in the life-time of A. Afterwards C dies in the life-time of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

Bequest upon impossible condition.

CXIII. A bequest upon an impossible condition is void.

Illustrations.

(*a.*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(*b.*) A bequeaths 500 Rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

CXIV. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(*a.*) A bequeaths 500 Rupees to B on condition that he shall murder C. The bequest is void.

(*b.*) A bequeaths 500 Rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of a condition precedent to vesting of a legacy.

CXV. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(*a.*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D, and E. A marries with the written consent of B. C is present at

the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(*b.*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(*c.*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries in the life-time of B, C, and D, with the consent of B and C only. A has not fulfilled the condition.

(*d.*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A obtains the unconditional assent of B,C, and D to his marriage with E. Afterwards B, C, and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(*e.*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries without the consent of B, C, and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(*f.*) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry A with the consent of A's executors. B marries during the life-time of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(*g.*) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and, on failure of the prior bequest, to B.

CXVI. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(*a.*) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(*b.*) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's life-time. The bequest to C takes effect.

Case in which the second bequest shall not take effect on failure of the first.

CXVII. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Illustration.

A makes a bequest to his wife, but in case she should die in his life-time, bequeaths to B that which he had bequeathed to her. A and B perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

CXVIII. A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, and 117.

Illustrations.

(*a.*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(*b.*) An estate is bequeathed to A, with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(*c.*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies, leaving a son, in A's life-time.

(*d.*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e.*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's life-time. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

CXIX. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Illustrations.

(*a.*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C, and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b.*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c.*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

CXX. If the ulterior bequest be not valid, the original bequest is not affected by it.

Illustrations.

(*a.*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b.*) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the Will.

(*c.*) An estate is bequeathed to A for life, and if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest on a condition that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

CXXI. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Illustrations.

(*a.*) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(*b.*) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(*c.*) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(*d.*) An estate is bequeathed to A, with a proviso that if she becomes a nun she shall cease to have any interest in the estate. A becomes a nun. She loses her interest under the Will.

(*e.*) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a nun, the bequest to her shall cease to have any effect. B becomes a nun in the life-time of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under Section 107.

CXXII. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by Section 107.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified, and on non-performance of which the subject-matter is to go over.

CXXIII. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Illustrations.

(*a.*) A bequest is made to A, with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(*b.*) A bequest is made to A, with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

Performance of condition, either precedent or subsequent, within specified time.

CXXIV. Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

CXXV. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Illustrations.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

CXXVI. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the Will had contained no such direction.

Illustrations.

(*a.*) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(*b.*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for purposes, some of which cannot be fulfilled.

CXXVII. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(*a.*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*b.*) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

CXXVIII. If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will, or otherwise manifests an intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

Of Specific Legacies.

Specific legacy defined.

CXXIX. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Illustrations.

(*a.*) A bequeaths to B—

"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
"The sum of 1,000 Rupees in a certain chest."
"The debt which B owes him."
"All his bills, bonds, and securities belonging to him, lying in his lodging in Calcutta."
"All his furniture in his house in Calcutta."
"All his goods on board a certain ship then lying in the River Hooghly."
"2,000 Rupees which he has in the hands of C."
"The money due to him on the bond of D."
"His mortgage on the Rampore Factory."
"One-half of the money owing to him on his mortgage of Rampore Factory."
"1,000 Rupees, being part of a debt due to him from C.
"His capital stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India, for 10,000 Rupees in their 4 per cent. loan."
"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."
"All the wine which he may have in his cellar at the time of his death."
"Such of his horses as B may select."
"All his shares in the Bank of Bengal."
"All the shares in the Bank of Bengal which he may possess at the time of his death."
"All the money which he has in the 5½ per cent. loan of the Government of India."
"All the Government Securities he shall be entitled to at the time of his decease."

Each of these legacies is specific.

(*b.*) A having Government promissory notes for 10,000 Rupees, bequeaths to his executors "Government promissory notes for 10,000 Rupees in trust to sell" for the benefit of B.

The legacy is specific.

(*c.*) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.

The legacy is specific.

(*d.*) A bequeaths to B—

His house in Calcutta.
His zemíndárí of Rampore.
His talook of Ramnagar.
His lease of the Indigo factory of Sulkea.
An annuity of 500 Rupees out of the rents of his zemíndárí of W..
A directs his zemíndárí of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(*e.*) A by his Will charges his zemíndárí of Y with an annuity of 1,000 Rupees to C during his life, and subject to this charge he bequeaths the zemíndárí to D. Each of these bequests is specific.

(*f.*) A bequeaths a sum of money to buy a house in Calcutta for B.

To buy an estate in Zillah Fureedpore for B.
To buy a diamond ring for B.
To buy a horse for B.
To be invested in shares in the Bank of Bengal for B.
To be invested in Government Securities for B.

A bequeaths to B—

"A diamond ring."
"A horse."
"10,000 Rupees worth of Government Securities."

"An annuity of 500 Rupees."

"2,000 Rupees, to be paid in cash."

"So much money as will produce 5,000 Rupees 4 per cent. Government Securities."

These bequests are not specific.

(*g*) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

CXXX. Where a sum certain is bequeathed, the legacy is not specific, merely because the stocks, funds, or securities in which it is invested are described in the Will.

Illustration.

A bequeaths to B—

"10.000 Rupees of his funded property."

"10,000 Rupees of his property now invested in Shares of the East Indian Railway Company."

"10,000 Rupees, at present secured by mortgage of Rampore Factory."

No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

CXXXI. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific, merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 Rupees 5 per cent. Government Securities. A had at the date of the Will 5 per cent. Government Securities for 5,000 Rupees.

The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

CXXXII. A money legacy is not specific, merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Illustration.

A bequeaths to B 10,000 Rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

When enumerated articles are not to be deemed to be specially bequeathed.

CXXXIII. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

Retention, in form, of specific bequest to several persons in succession.

CXXXIV. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Illustrations.

(*a*.) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

CXXXV. Where property comprised in a bequest to two or more persons in succession, is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

CXXXVI. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

Of Demonstrative Legacies.

Demonstrative legacy defined.

CXXXVII. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*a*.) A bequeaths to B 1,000 Rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 Rupees, to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*.) A bequeaths to B "ten bushels of the corn which shall grow in his field of Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 Rupees out of his 5 per cent. promissory notes of the Government of India."

An annuity of 500 Rupees "from his funded property."

"1,000 Rupees out of the sum of 2,000 Rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his talook of Ramnagar.

A bequeaths to B "10,000 Rupees out of his estate at Ramnagar," or charges it on his estate at Ramnagar.

"10,000 Rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

CXXXVIII. Where a portion of a fund is specifically bequeathed, and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 Rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 Rupees, to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 Rupees; of these 1,500 Rupees, 1,000 Rupees belong to B, and 500 Rupees are to be paid to C. C is also to receive 500 Rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

Ademption explained.

CXXXIX. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Illustrations.

(*a.*) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
A, in his life-time—
Sells or gives away the ring.
Converts the chain into a cup.
Converts the wool into cloth.
Makes the cloths into a garment.
Takes another house, into which he removes all his goods.
Each of these legacies is adeemed.

(*b.*) A bequeaths to B—
"The sum of 1,000 Rupees in a certain chest."
"All the horses in his stable."
At the death of A, no money is found in the chest, and no horses in the stable.
The legacies are adeemed.

(*c.*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.
The legacy is adeemed.

Non-ademption of demonstrative legacy.

CXL. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from a third party.

CXLI. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

(*a.*) A bequeaths to B—
"The debt which C owes him."
"2,000 Rupees which he has in the hands of D."
"The money due to him on the bond of E."
"His mortgage on the Rampore Factory."
All these debts are extinguished in A's life-time, some with and some without his consent.
All the legacies are adeemed.

(*b.*) A bequeaths to B—

"His interest in certain policies of life assurance."

A in his life-time receives the amount of the policies. The legacy is adeemed.

Ademption pro tanto by testator's receipt of part of entire thing specifically bequeathed.

CXLII. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 Rupees. C pays to A 5,000 Rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 Rupees received by A.

Ademption pro tanto by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

CXLIII. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 Rupees due to him from W. A in his life-time receives 6,000 Rupees, part of the 10,000 Rupees. The 4,000 Rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

CXLIV. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charge on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 Rupees, part of the debt of 2,000 Rupees due to him from W. He also bequeaths to C 1,000 Rupees, to be paid out of the debt due to him from W. A afterwards receives 500 Rupees, part of that debt, and dies, leaving only 1,500 Rupees due to him from W. Of these 1,500 Rupees, 1,000 Rupees belong to B, and 500 Rupees are to be paid to C. C is also to receive 500 Rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

CXLV. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

"His capital stock of 1,000*l.* in East India Stock."

"His promissory notes of the Government of India for 10,000 Rupees in their 4 per cent. loan."

A sells the stock and the notes.

The legacies are adeemed.

Ademption pro tanto where stock, specifically bequeathed, exists in part only at testator's death.

CXLVI. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B—

"His 10,000 Rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 Rupees in the loan in question.

One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

CXLVII. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

(*a.*) A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

(*b.*) A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

CXLVIII. The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations.

(*a.*) A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

(*b.*) A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

(*c.*) A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a Warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

CXLIX. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of Will and testator's death.

CL. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

(*a.*) A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's life-time into 5 per cent. stock.

(*b.*) A bequeaths to B the sum of 2,000*l.* invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

(*c.*) A bequeaths to B the sum of 10,000 Rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by will. Afterwards, in A's life-time the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

CLI. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

CLII. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but replaced, and belonging to the testator at his death.

CLIII. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

Non-liability of executor to exonerate any specific legatees.

CLIV. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(*a.*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b.*) A bequeaths to B a zemindárí, which at A's death is subject to a mortgage for 10,000 Rupees, and the whole of the principal sum, together with interest to the amount of 1,000 Rupees, is due at A's death. B, if he accepts the bequest, accepts it

subject to this charge, and is liable (as between himself and A's estate) to pay the sum of 11,000 Rupees thus due.

Completion of testator's title to things bequeathed, to be at cost of his estate.

CLV. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(*a.*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b.*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land revenue or rent is payable periodically.

CLVI. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 Rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 Rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

CLVII. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate: but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

Illustrations.

(*a.*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made; and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b.*) A has agreed to take fifty shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c.*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d.*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e.*) A is the owner of ten shares in a Railway Company. At a meeting held during his life-time a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first, and the day fixed for the payment of the second instalments, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in General Terms.

Bequest of thing generally described.

CLVIII. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations.

(*a.*) A bequeaths to B *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b.*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

Bequest of the interest or produce of a fund.

CLIX. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Illustrations.

(*a.*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b.*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c.*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

CLX. Where an annnity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Illustrations.

(*a.*) A bequeaths to B 500 Rupees a year. B is entitled during his life to receive the annual sum of 500 Rupees.

(*b.*) A bequeaths to B the sum of 500 Rupees monthly. B is entitled during his life to receive the sum of 500 Rupees every month.

(*c.*) A bequeatbs an annuity of 500 Rupees to B for life, and on B's death to C. B is entitled to an annuity af 500 Rupees during his life. C, if he survives B, is entitled to an annuity of 500 Rupees from B's death until his own death.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

CLXI. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled, at his option, to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Illustrations.

(*a.*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 Rupees for B. B is entitled at his option to have an annuity of 1,000 Rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b.*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's life-time. On B's death the fund belongs to the representative of C.

Abatement of annuity.

CLXII. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

CLXIII. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

PART XXVI.

Of Legacies to Creditors and Portioners.

Creditor primâ facie entitled to legacy as well as debt.

CLXIV. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Child primâ facie entitled to legacy as well as portion.

CLXV. Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 Rupees on her marriage. This covenant having been broken, A bequeaths 20,000 Rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by a subsequent provision for the legatee.

CLXVI. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

Illustrations.

(*a*) A bequeaths 20,000 Rupees to his son B. He afterwards gives to B the sum of 20,000 Rupees. The legacy is not thereby adeemed.

(*b.*) A bequeaths 40,000 Rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 Rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

Circumstances in which election takes place.

CLXVII. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it,

and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Devolution of interest relinquished by the owner.

CLXVIII. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favor of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Testator's belief as to his ownership immaterial.

CLXIX. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Illustrations.

(*a.*) The farm of Sultànpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 Rupees to C. C has elected to retain his farm of Sultànpur, which is worth 800 Rupees. C forfeits his legacy of 1,000 Rupees, of which 800 Rupees goes to B, and the remaining 200 Rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b.*) A bequeaths an estate to B in case B's elder brother (who is married, and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c.*) A bequeaths to B 1,000 Rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married, and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d.*) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

Bequest for a man's benefit how regarded for the purpose of election.

CLXX. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Illustration.

The farm of Sultànpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultànpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will, or keep his farm of Sultànpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

CLXXI. A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

Illustration.

The lands of Sultànpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultànpur to B, and 1,000 Rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 Rupees, and accounts to B for the rents of the lands of Sultànpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultànpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

CLXXII. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

Illustration.

The estate of Sultànpur is setled upon A for life, and after his death upon B. A leaves the estate of Sultànpur to D, and 2,000 Rupees to B, and 1,000 Rupees to

C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultànpur in opposition to the Will, and to relinquish the legacy of 2,000 Rupees. C may do this, and yet claim his legacy of 1,000 Rupees under the Will.

Exception to the six last Rules.—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultànpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultànpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

CLXXIII. Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

Illustrations.

(*a.*) A is owner of an estate called Sultànpur Khurd, and has a life interest in another estate called Sultànpur Buzurg, to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultànpur Khurd to B, and the estate of Sultànpur Buzurg to C. B, in ignorance of his own right to the estate of Sultànpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultànpur Khurd. B has not confirmed the bequest of Sultànpur Buzurg to C.

(*b.*) B, the eldest son of A, is the possessor of an estate called Sultànpur. A bequeaths Sultànpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5,000 Rupees, allows C to take possession of Sultànpur. He afterwards discovers that the residue does not amount to more than 500 Rupees. B has not confirmed the bequest of the estate of Sultànpur to C.

Presumption arising from enjoyment by legatee for two years.

CLXXIV. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

CLXXV. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

CLXXVI. If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expira-

tion of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it he shall be deemed to have elected to confirm the Will.

Effect of not complying with their request within a reasonable time.

CLXXVII. In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

Postponement of election in case of disability.

PART XXVIII.

Of Gifts in Contemplation of Death.

CLXXVIII. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Property transferable by gift made in contemplation of death.
When a gift is said to be made in contemplation of death.
Such gift resumable.
When it fails.

Illustrations.

(*a.*) A, being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.
A bond granted by C to A.
A bank note.
A promissory note of the Government of India endorsed in blank.
A bill of exchange endorsed in blank.
Certain mortgage deeds.
A dies of the illness during which he delivered those articles.
B is entitled to—
The watch.
The debt secured by C's bond.
The bank note.
The promissory note of the Government of India.
The bill of exchange.
The money secured by the mortgage deeds.

(*b.*) A, being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c.*) A, being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

CLXXIX. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Character of executor or administrator as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

CLXXX. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

CLXXXI. Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

CLXXXII. The appointment may be express or by necessary implication.

Illustrations.

(*a.*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b.*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c.*) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee, to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Person to whom probate cannot be granted.

CLXXXIII. Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Probate may be granted to several executors simultaneously or at different times.

CLXXXIV. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.

Procedure when different executors are appointed by the Codicil.

CLXXXV. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Accrual of representation to surviving executor.

CLXXXVI. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

CLXXXVII. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under Section 180.

Probate establishes the Will from testator's death.

CLXXXVIII. Probate of a Will, when granted, establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

CLXXXIX. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Persons to whom letters of administration may not be granted.

CXC. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

No right to intestate's property can be established unless administration be previously granted by a competent Court.

CXCI. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

From what period letters of administration entitle administrator to intestate's rights.

CXCII. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Improper acts of administrator not validated by letters of administration.

CXCIII. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that, when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Grant of administration where executor has not renounced.

Exception.

CXCIV. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Form and effect of renunciation of executorship.

CXCV. If the executor renounce, or fail to accept, the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where exetor renounces or fails to accept within time limited.

CXCVI. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will, but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration, with the Will annexed, may be granted to him of the whole estate, or of so much thereof as may be administered.

Grant of administration to universal or residuary legatee.

CXCVII. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

CXCVIII. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

CXCIX. Letters of administration with the Will annexed shall not be granted to any legatee other than a universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

Order in which connections by marriage or by consanguinity are entitled to administration.

CC. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Administration to be granted to widow, unless Court see cause to exclude her.

CCI. If the deceased has left a widow, administration shall be granted to the widow, unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations.

(*a.*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b.*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

Persons associated with widow in administration.

CCII. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Grant of administration where no widow, or widow excluded.

CCIII. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate: Provided that, when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Proviso.

Deceased's kindred of equal degree, equally entitled to administration.

CCIV. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Right of widower to administration of wife's estate.

CCV. The husband, surviving his wife, has the same right of administration of her estate, as the widow has in respect of the estate of her husband.

Grant of administration to a creditor.

CCVI. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration, and willing to act, they may be granted to a creditor.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

CCVII. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

PART XXX.

Of Limited Grants.

(a.) *Grants limited in Duration.*

Probate of copy or draft of lost Will.

CCVIII. When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident, and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy of draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed Will.

CCIX. When the Will has been lost or destroyed, and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of copy where original exists.

CCX. When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will, or an authenticated copy of it, be produced.

Administration until the Will be produced.

CCXI. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it, be produced.

(b.)—*Grants for the use and benefit of others having Right.*

Administration, with the Will annexed, to Attorney of an absent executor.

CCXII. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration with the Will annexed, to Attorney of an absent person, who, if present, would be entitled to administer.

CCXIII. When any person to whom, if present, letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration with the Will annexed may be granted to his Attorney, limited as above mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

CCXIV. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration during minority.

CCXV. When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of such minor, or to such other person as the Court shall think fit, until the minor shall have completed the age of eighteen years, at which period, and not before, probate of the Will shall be granted to him.

Administration until one of several minor executors or residuary legatees attains majority.

CCXVI. When there are two or more minor executors, and no executor who has attained majority, or two or more residuary legatees, and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration for use and benefit of lunatic jus habens.

CCXVII. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestate's estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration pendente lite.

CCXVIII. Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

(c.)—*For Special Purposes.*

Probate limited to purpose specified in the Will.

CCXIX. If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration, with the Will annexed, shall accordingly be limited.

Administration, with the Will annexed, limited to a particular purpose.

CCXX. If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration, with the Will annexed, shall be limited accordingly.

Administration limited to property in which a person has a beneficial interest.

CCXXI. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to a suit.

CCXXII. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of

representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same and any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

CCXXIII. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration, limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to the collection and preservation of deceased's property.

CCXXIV. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration, limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Administration as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

CCXXV. When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d.)—*Grants with Exception.*

Probate or administration with the Will annexed, subject to exception.

CCXXVI. Whenever the nature of the case requires that an exception be made, probate of Will, or letters of administration with Will annexed, shall be granted subject to such exception.

Administration with exception.

CCXXVII. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e.)—*Grants of the Rest.*

Probate or administration of the rest.

CCXXVIII. Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f.)—*Grants of Effects unadministered.*

Grant of effects unadministered.

CCXXIX. If the executor to whom probate has been granted has died, leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

CCXXX. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

CCXXXI. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

(*g.*)—*Alteration in Grants.*

What errors may be rectified by the Court.

CCXXXII. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

CCXXXIII. If, after the grant of letters of administration, with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

(*h.*)—*Revocation of Grants.*

Revocation or annulment for just cause, of grant of probate or administration.

CCXXXIV. The grant of probate or letters of administration may be revoked or annulled for just cause.

Explanation.—Just cause is—1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative, through circumstances.

Illustrations.

(*a.*) The Court by which the grant was made had no jurisdiction.

(*b.*) The grant was made without citing parties who ought to have been cited.

(*c.*) The Will of which probate was obtained was forged or revoked.

(*d.*) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e.*) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(*f.*) Since probate was granted, a later Will has been discovered.

(*g.*) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment of executors under the Will.

(*h.*) The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

PART XXXI.

OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Jurisdiction of District Judge in the granting and revoking of probates and letters of administration.

CCXXXV. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

District Judge's powers as to the granting of probate and letters of administration.

CCXXXVI. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge may order any person to produce testamentary papers.

CCXXXVII. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

CCXXXVIII. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated, so far as the circumstances of the case will admit, by the Code of Civil Procedure.

When and how District Judge is to interfere for the protection of property.

CCXXXIX. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

CCXL. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition, verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When application is made to the Judge of a District in which the deceased had no fixed abode.

CCXLI. When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District; or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

Conclusiveness of probate or letters of administration.

CCXLII. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration if properly made and verified.

CCXLIII. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration; and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property, within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

CCXLIV. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

CCXLV. In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other lauguage, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (*A B*) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Verification of translation made by any person other than the Court translator.

Petition for letters of administration.

CCXLVI. Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the

deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

CCXLVII. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

"I *(A B)*, the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate, by one of the witnesses to the Will.

CCXLVIII. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable,) in the manner or to the effect following:—

"I *(C D)*, one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto *(as the case may be,)* (*or* that the said testator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence)."

Punishment for making false averment in petition or declaration.

CCXLIX. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine the petitioner, require further evidence, and issue citations to inspect the proceedings.

CCL. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

Publication of citation.

Caveat against grant of probate or administration.

CCLI. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

CCLII. The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at without notice to C D of ."

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

CCLIII. No proceeding shall be taken on a petition for probate or letters of administration after caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

Grant of probate to be under seal of the Court.

CCLIV. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of in the year , the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to , the executor in the said Will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of letters of administration to be under seal of Court.

CCLV. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the Will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father *(or as the case may be)* of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration bond.

CCLVI. Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to ensure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration bond.

CCLVII. The Court may, on application made by petition, and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court or otherwise, as the Court may think fit, assign the same to some person, his executors, or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, administration until after fourteen days, from the testator's or intestate's death.

CCLVIII. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days, from the day of the testator or intestate's death.

Filing of original Wills of which probate

CCLIX. Every District Judge shall file and preserve all original Wills, of which probate or letters of administration with the Will annexed may be granted by him, among

or letters of administration, with Will annexed, have been granted.

the records of his Court, until some public registry for Wills is established; and the local Government shall make regulations for the preservation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

CCLX. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

CCLXI. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Effect of payment to executor or administrator before probate or letters of administration revoked.

CCLXII. Where any probate is, or letters of administration are, revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Right of such executor or administrator to recoup himself.

Appeals from orders made by a District Judge under powers confered by this Act.

CCLXIII. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

CCLXIV. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

Of Executors of their own Wrong.

Executor of his own wrong.

CCLXV. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions.—First.—Intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral, or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(*a.*) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b.*) A having been appointed agent by the deceased in his life-time to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c.*) A sues as executor of the deceased, not being such, he is an executor of his own wrong.

Liability of an executor of his own wrong.

CCLXVI. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

In respect of causes of action surviving the deceased, and rents due at the time of his death.

CCLXVII. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

Demands and rights of action in favor of or against deceased, survive to and against executor or administrator.

CCLXVIII. All demands whatsoever, and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(*a.*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b.*) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power to dispose of deceased's property.

CCLXIX. An executor or administrator has power to dispose of the property of the deceased either wholly or in part, in such manner as he may think fit.

Illustrations.

(*a.*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b.*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

Purchase by an executor or administrator of deceased's property.

CCLXX. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators, exerciseable by one.

CCLXXI. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Illustrations.

(*a.*) One of several executors has power to release a debt due to the deceased.
(*b.*) One has power to surrender a lease.
(*c.*) One has power to sell the property of the deceased, moveable or immoveable.
(*d.*) One has power to assent to a legacy.
(*e.*) One has power to endorse a promissory note payable to the deceased.
(*f.*) The Will appoints A, B, C, and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

CCLXXII. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Powers of administrator of effects unadministered.

CCLXXIII. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

CCLXXIV. An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

CCLXXV. When probate or latters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

PART XXXIV.

Of the Duties of an Executor or Administrator.

As to deceased's funeral.

CCLXXVI. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he had left property sufficient for the purpose.

Inventory and account.

CCLXXVII. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character; and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

CCLXXVIII. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Expenses to be paid before all debts.

CCLXXIX. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

CCLXXX. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

CCLXXXI. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid, and then the other debts.

CCLXXXII. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debts is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

CCLXXXIII. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 Rupees, immoveable property to the value of 5,000 Rupees, debts on instruments under seal to the amount of 10,000 Rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied, as far as they will extend, towards the discharge of the debts not under seal. Accordingly one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

CCLXXXIV. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased, unless he brings such payment into account for the benefit of the other creditors.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 Rupees, and immoveable property to the value of 10,000 Rupees, debts on instruments under seal to the amount of 10,000 Rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 Rupees, which are to be distributed rateably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

CCLXXXV. Debts of every description must be paid before any legacy.

Debts to be paid before legacies.

CCLXXXVI. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Executor or administrator not bound to pay any legacy without indemnity.

Abatement of general legacies.

Executor not to pay one legatee in preference to any other.

CCLXXXVII. If the assets, after payment of debts, necessary expenses, and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

CCLXXXVIII. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under a demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

CCLXXXIX. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

CCXC. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 Rupees, and to C a horse, valued at 1,000 Rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 Rupees. Of this sum Rupees 333-5-4 are to be paid to B, and Rupees 666-10-8 to C.

Legacies treated as general for the purpose of abatement.

CCXCI. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executor's assent necessary to complete legatee's title.

CCXCII. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(*a*.) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*.) A by his Will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to specific legacy.

CCXCIII. The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the

Assent may be verbal, and either express or implied.

legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(*a.*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b.*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c.*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d.*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e.*) A person to whom a specific article has been bequeathed, takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

CCXCIV. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(*a.*) A bequeaths to B his lands of Sultànpur, which at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 Rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b.*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

Implied assent.

CCXCV. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Illustration.

An executor takes the rent of a house, or the interest of Government Securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from the testator's death.

CCXCVI. The assent of the executor to a legacy gives effect to it from the death of the testator.

Illustrations.

(*a.*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b.*) A bequeaths 1,000 Rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from the testator's death.

CCXCVII. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his Will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

Commencement of annuity when no time fixed by Will.

CCXCVIII. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly, first falls due.

CCXCIX. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

Apportionment where annuitant dies between times of payment.

CCC. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

Investment of sum bequeathed where a legacy, not specific, is given for life.

CCCI. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy to be paid at a future time.

Intermediate interest.

CCCII. Where a general legacy is to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Procedure when no fund is charged with or appropriated to an annuity.

CCCIII. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee amount of contingent bequest.

CCCIV. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed to a person for life without direction to invest in particular securities.

CCCV. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

CCCVI. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be coverted into money and invested in such securities.

Time and manner of conversion and investment.

Interest payable until investment.

CCCII. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested, shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

CCCVIII. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge by whom the probate was, or letters of administration, with the Will annexed, were, granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if a legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government Securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

OF THE PRODUCE AND INTEREST OF LEGACIES.

Legatee of specified legacy entitled to produce thereof from the testator's death.

CCCIX. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a.*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b.*) A bequeaths his Government Securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Governmnet promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from the testator's death.

CCCX. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest, contingent in its terms, does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*a.*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b.*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

CCCXI. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions.—(1.) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

CCCXII. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

CCCXIII. The rate of interest shall be four per cent. per annum.

No interest is payable on arrears of annuity within first year after the testator's death.

CCCXIV. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

Interest payable on a sum to be invested to produce annuity.

CCCXV. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

PART XXXIX.

OF THE REFUNDING OF LEGACIES.

Refund of a legacy paid under Judge's orders.

CCCXVI. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if a legacy be paid voluntarily.

CCCXVII. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on the performance of a condition within any further time allowed under Section 124.

CCCXVIII. When the time prescribed by the Will for the performance of a condition has elasped, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under Section 124, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are all liable to refund the amount.

When each legatee is compellable to refund in proportion.

CCCXIX. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

CCCXX. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

Within what period a creditor may call upon a legatee to refund.

CCCXXI. A creditor who has not received payment of his debt may, within two years after the death of the testator, or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

CCCXXII. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When an unsatisfied legatee must proceed against executor, if he be solvent.

CCCXXIII. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to the refunding of one legatee to another.

CCCXXIV. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Illustration.

A has bequeathed 240 Rupees to B, 480 Rupees to C, and 720 Rupees to D. The assets are only 1,200 Rupees, and if properly administered would give 200 Rupees to B, 400 Rupees to C, and 600 Rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to Refund 80 Rupees, and D to refund 120 Rupees.

Refunding to be without interest.

CCCXXV. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments, to be paid to residuary legatee.

CCCXXVI. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

Of the Liability of an Executor or Administrator for Devastation.

Liability of executor or administrator for devastation.

CCCXXVII. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a.*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b.*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c.*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

CCCXXVIII. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*a.*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b.*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

MISCELLANEOUS.

CCCXXIX. *Repealed by Act VII.*, 1870, *Section* 2.

CCCXXX. *Repealed by Act XXIV.*, 1867, *Section* 2, *and Schedule.*

Succession to property of Hindús, Muhammadans, or Buddhists, and certain Wills, Intestacies, and marriages, not affected by this Act.

CCCXXXI. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan, or Buddhist; nor shall they apply to any Will made, or any intestacy occurring, before the 1st day of January, 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Power of the Governor-General in Council to exempt any race, sect, or tribe in British India from the operation of this Act.

CCCXXXII. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect, or tribe in British India, or any part of such race, sect, or tribe to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the *Gazette of India.*

SCHEDULE.

Repealed by Act VII., 1870, *Section* 2, *Schedule* 3.

ACT NO. XI. OF 1865.*

1. Interpretation.
2. Courts constituted under Act XLII. of 1860 to be considered as constituted under this Act.
3. Local Government, with sanction, may constitute Courts of Small Causes, and fix their territorial jurisdiction, and may abolish any such Court.
4. Court to use a seal, and be subject to the control of the High Court.
5. Courts to be held at places appointed by Government.
6. Court to have cognizance of claims for money due on bond or contract, or for rent or personal property or the value of such, or for damages, not exceeding 500 Rupees.
7. Jurisdiction may be extended to 1,000 Rupees.
8. Court to have cognizance if defendant, at the time of commencement thereof, dwell or personally work for gain or carry on business within local limits, or, the cause of action having arisen within such limits, defendant carries on business or works for gain therein by his servant or agent.
9. Suits against Government to be brought at the seat of such Government.
10. Suits against the Secretary of State to be brought at the seat of the Government within whose territories the cause of action arose.
11. Summons may be served on a servant or agent carrying on business or working for gain for the defendant within local limits of jurisdiction.
12. Suits cognizable by a Small Cause Court not to be heard by any other Court within the same local limits. Saving of the Civil Jurisdiction of certain authorities in Madras and Bombay, and of Military Courts of Requests or Cantonment Joint-Magistrates.

* Act X., 1867, is to be read with, and taken as part of, this Act.

13 Local Government to appoint a Judge, with such salary as the Governor-General in Council shall determine, to every Court, or to two or more of such Courts

14 Judge to fix the dates of circuits and sittings in each Court

15 Government may invest any person with the powers of a Judge under this Act for a limited period or for specific periods in each year

16 Such Judge may exercise in any Court a concurrent jurisdiction with the Judge of such Court. Government to make Rules for the regulation of business between such persons, and generally for defining the duties and relative positions of the Judges and persons so invested

17 Person so invested to receive the remuneration fixed by the Governor General in Council, and not to practise as an Advocate within his jurisdiction

18 Summons to be for final disposal of suit

19 Court may on the verbal application of the judgment-creditor made at the time of passing the decree, order immediate execution either against person or property

20 If moveable property prove insufficient, Court having general jurisdiction may, on application of the judgment creditor, issue execution against the immoveable property

21 Decisions and order to be final, but an *ex-parte* decree may, for sufficient cause, be set aside on notice of application for such purpose being given within 30 days of execution of any process for enforcing the decree, or a new trial may be granted, if notice be given within 7 days from the decision and the amount of debts and costs be deposited in Court

22 In cases not exceeding 500 Rupees, Court may, of its own motion or on the application of either party, refer for decision to the High Court a question of law or usage, or as to the construction of a document, but in suits above that amount, the Court shall be bound to do so

23 Court may pass decree contingent upon the opinion of the High Court.

24 High Court to fix a day for hearing and give notice thereof.

25 Parties may appear and be heard

26 High Court to send copy of its judgment to the lower Court, which shall dispose of the case accordingly

27. Costs of reference to be costs in the suit

28. High Court may alter, cancel, or set aside the order or decree of the lower Court

29 One of several Courts in a District may be appointed the Principal Court of Small Causes in the District

30. Judge of Principal Court may sit with Judge of any other Court for the trial of any suit.

31. Local Government to prescribe by Rule in what cases two Judges shall sit together

32 In such cases, if the Judges concur, such decision to be the decision of the Court but if they differ on a point of law or usage, or as to the construction of a document, a case shall be submitted to the High Court as above

33 If such Judges differ on any other matter, Senior Judge to have a casting vote.

34 If a Judge and a person invested with powers under Section 15 differ on any such matter, the Judge to have a casting vote

35 Government may appoint to any Court a Registrar, to receive a salary authorized by the Governor-General in Council

36 Registrar to be the chief ministerial Officer of the Court, to receive plaints and documents, to issue notices and processes, and to fix days of hearing

37 During absence of Judge, Registrar may reject plaints appearing to be defective under Sections 27 to 32 of the Code of Civil Procedure Judge may reject any plaint received by the Registrar, or receive a plaint rejected by him

38 Registrar may during such absence, receive a confession of judgment and enter a decree thereon

39 Registrar may also receive applications for execution of decrees, and execute the same but Judge may, within three months from any such order, reverse or modify it

40 Registrar may be invested with power, subject to the general control of the Judge, to try suits not exceeding 20 Rupees.

41 Such suits to be set down for hearing before the Registrar, but Judge may transfer to his own file, and hear and determine, any such suit

42 No appeal from decision of Registrar but he may refer for the decision of the Judge doubtful questions of law or usage, or as to the construction of a document

43 Decree passed by Registrar may be set aside by the Judge, in such manner and on such grounds as he may set aside a decree passed by himself

44. A Clerk of the Court may be appointed The Registrar may be also the Clerk of the Court

45. Clerk to issue summonses, warrants, orders, and writs, and to take charge and keep account of monies.

46 High Court may make Rules for regulating the practice and proceedings of the Courts, and may prescribe forms

47 The Code of Civil Procedure, so far as applicable, to apply.

48 Section 2 of Act III of 1859, and Sections 6 to 8 of Act XXII of 1864, relating to Small Cause Courts in Military Cantonments, not to affect actions brought before Military Courts under Act XI of 1841 in places beyond British India

49 Act not to affect jurisdiction of Courts of Requests under the Statute for punishing Mutiny and Desertion

50 Reference in previous Acts to Act XLII of 1860, to be read as applying to this Act

51. A Judge may be invested with powers of a Magistrate and of a Principal Sudder Ameen

52. And with the powers (except of hearing appeals) of a Collector under Act X of 1859, where that Act is in force.

53 Courts to comply with requisitions of the local Government or High Court for records, returns, and statements.

An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature.

Preamble. Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature; It is enacted as follows:

Interpretation Clause. I. In this Act, unless there be something repugnant in the subject or context—

Words importing the singular number include the plural, and words importing the plural number include the singular.

Number.

Gender.

Words importing the masculine gender include females.

"Judge."

"Judge" includes an Acting Judge.

"Section."

"Section" means a Section of this Act.

"Court of Small Causes."

"Court of Small Causes" means a Court constituted under this Act.

"Local Government."

"High Court."

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part; and "High Court" denotes the Highest Civil Court of Appeal having jurisdiction therein.

Repeal of Acts XLII. of 1860 and XII. of 1861.

II. Any Courts of Small Causes now in existence which shall have been constituted under Act XLII. of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII. of 1860, or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein.

Constitution of Small Cause Courts.

Limits of their territorial jurisdiction to be fixed by local Government.

III. The local Government may, with the previous sanction of the Governor-General of India in Council, constitute, for the trial of suits under this Act, Courts of Small Causes, with such establishment of Officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The local Government may abolish any Court of Small Causes.

Seal of the Court.

Courts to be generally subject to the High Court.

IV. Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of——————————,"—and shall be subject to the general control and orders of the High Court.

Places where Courts to be held.

V. Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the local Government.

Suits cognizable by Small Cause Courts.

Proviso.

VI. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of 500 Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court—

(1.) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2.) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3.) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4.) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the local Government with jurisdiction over claims to such arrears.

Power to extend jurisdiction of Small Cause Courts to Rupees 1,000.

VII. The local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding 1,000 Rupees.

Jurisdicton of the Courts.

VIII. Courts of Small Causes may try such suits as are described in Section 6 and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court: or if the cause of action arose within the said local limits and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Explanation.—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office in respect of any cause of action arising at such place.

(*c.*) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

Suits against Government.

IX. Suits against the local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against the Secretary of State.

X. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the local Government for the Territories in which the cause of action arose.

Substituted service of summonses.

XI. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or works for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Suits cognizable by a Court of Small Causes not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Punchâyets in Madras.

XII. Whenever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Punchâyets, under the pro-

visions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint-Magistrates invested with Civil jurisdiction under Act III. of 1859 *(for conferring Civil jurisdiction in certain cases upon Cantonment Joint-Magistrates, and for constituting those Officers Registers of Deeds)*, or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars in Cantonments and Stations occupied by the troops of those Presidencies respectively; or by Punchâyets in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Punchâyets in Madras.

XIII. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the local Government, who shall receive such salary as the Governor-General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts, as the local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

Judge of Court.

XIV. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other Principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette, and at such places and in such manner as the local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

XV. The local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period, or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under Section 30.

Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes.

Powers to be exercised by persons so invested.

XVI. If it shall be declared by the local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under Section 13, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and, generally for regulating and defining the duties and relative positions of Judges of Courts of Small

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

Causes and persons so invested as aforesaid: Provided, always, that no such Rule shall be in any way inconsistent with the provisions of this Act.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

XVII. Every person invested with the powers of a Judge of a Court of Small Causes under Section 15 shall receive such remuneration as the Governor-General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any District or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Summons.

XVIII. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

In suits cognizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or moveable property.

XIX. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the moveable property of the judgment-debtor within the same limits. If the warrant be directed against the moveable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

Execution against immoveable property, if moveable property be not sufficient.

XX. In the execution of a decree under this Act, if, after the sale of the moveable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immoveable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immoveable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules, and mode of procedure in like cases.

Decision in suits tried under this Act to be final.

Ex-parte decree may be set aside.

XXI. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex-parte* against a defendant, he may, within thirty days after any process for enforcing the decree has been executed, give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting, for an order to set it aside: and if, on the application being made

to the Court at its next sitting it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree, and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided, also, that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs, if any, of the opposite party.

New trial.

On deposit of debt and costs.

XXII. If, in the trial of any suit under this Act, any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding 500 Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than 500 Rupees, shall draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

XXIII. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

XXIV. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

XXV. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

XXVI. The High Court, when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy; proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

XXVII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

XXVIII. When a case is referred to the High Court under Section 22, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to High Court to alter or set aside order or decree made in the matter.

Power to appoint one of the Courts of a District to be the Principal Court.

XXIX. Whenever more Courts than one are constituted in any District under this Act, the local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suit.

XXX. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

XXXI. The local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges differ on a point of law.

XXXII. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court; but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in Section 22 of this Act; and the provisions applicable to a reference to the High Court, contained in Sections 22, 23, 24, 25, and 26 of this Act, shall be applicable to every reference made under this Section.

Casting voice in case of difference between two Judges on a question of fact.

XXXIII. If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

XXXIV. If a Judge and a person invested with the powers of a Judge as aforesaid, differ on any matter other than the matters above-mentioned, the Judge shall have the casting voice.

Appointment of Registrar.

XXXV. It shall be lawful for the local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor-General of India in Council.

Duties of Registrar.

XXXVI. The Registrar of every Court of Small Causes shall be the Chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive

any documents which the parties may wish to put in; and issue processes for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under Section 21.

Procedure where Registrar thinks plaint defective in certain particulars.

XXXVII. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections 27 to 32, both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge, or for any person invested with the powers of a Judge as aforesaid, to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection, as the case may be, by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Proviso.

Registrar may receive and enter up judgments by confession.

XXXVIII. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Proviso.

Execution of decrees by Registrar.

XXXIX. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

XL. The local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed 20 Rupees. The Registrar shall exercise such powers

subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Hearing of suits cognizable by Registrar.

XLI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine, and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Transfer from Registrar's to Judge's file.

No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

XLII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under Section 22 of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis,* to the stating of a case by the Registrar.

Provisions applicable to such reference.

Setting aside decree by a Registrar under Section 38.

XLIII. A decree passed by a Registrar under Section 48, may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Appointment and removal of Clerk of the Court.

XLIV. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor-General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other Principal Civil Authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

Duties of Clerk.

XLV. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar, if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

High Court empowered to make rules of practice &c.

XLVI. The High Court shall have power to make and issue general Rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts

for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such Rule or form: Provided that such Rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Act VIII. of 1859 made applicable to cases cognizable under this Act.

XLVII. Section 26 of Act X. of 1862 *(to consolidate and amend the law relating to Stamp Duties)*, and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

Saving of Act XI. of 1841, Section 17.

XLVIII. Nothing in Section 2 of the said Act III. of 1859, or Sections 6, 7, and 8 of Act XXII. of 1864 *(to make provision for the Administration of Military Cantonments)*, relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act XI. of 1841 *(for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company)* as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

XLIX. Nothing in this Act, nor in Sections 6, 7, and 8 of the said Act XXII. of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under Section 103 of the Statute 27 Vict., chap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII. of 1860 to be read as applying to this Act.

L. When in any Act, passed prior to the coming into operation of this Act, reference is made to Act XLII. of 1860, such reference shall be read as applying to this Act; and when any procedure is directed to be in accordance with the provisions of Act XLII. of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

LI. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like, or nearly the like, powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear

LII. In the places in which the provisions of Act X. of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)* are in force, the local Government may empower any Judge of

claims under Act X. of 1859.

a Court of Small Causes to hear and determine, under the rules contained in the said Act X. of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X. of 1859, except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by local Government or High Court.

LIII. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

Act No. XIII. of 1865.

Preliminary.

1. Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."
2. Interpretation.

Of Charges where the Accused is committed in a Presidency Town.

3. Written charge to be delivered to Clerk of the Crown with the commitment of every person committed, or held to bail for trial before the High Court.
4. Clerk may amend, alter, or add to the charge, and record the same, and a copy of such recorded charge shall be given, gratis, to the person charged.
5. Person charged also entitled to have copies of the examinations of witnesses on payment of one anna for 90 words.
6. Persons committed on charges so recorded to be deemed to be brought before the High Court in due course of law.
7. The word "indictment" in Act XVIII. of 1862 to include "charge."
8. Judge who would ordinarily try a charge may, at any time before the arrangement, and without the flat of the Advocate-General, record that any charge is clearly unsustainable which shall operate as an acquittal, unless within 3 years a fresh charge be brought.

Of Grand Juries.

9. After commencement of this Act no persons to be summoned as Grand Jurors. Persons now exempt, to be liable, except as hereinafter provided, to serve on common juries.
10. No person to be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such persons have been summoned before the commencement of this Act.

Of Juries in Presidency Towns.

11. Persons charged with offences punishable with death, to be tried before a Special Jury: and also persons charged with any offence, if a Judge of the Court shall order.
12. The Jurors' Book for the current year to be taken as giving the first list of Jurors. Persons there entered as privileged to serve on Grand or Special Juries only, to be Special Jurors under this Act, and a list of such persons, to be called the Special Jurors' list, to be forthwith prepared.
13. The number of persons on such list to be allowed to diminish to 200, and no greater number to be ever on the list.
14. Special Jurors exempt from serving on other Juries.
15. Clerk of the Crown or other Officer, to prepare annual lists of Jurors and Special Jurors, subject to Rules prescribed by the Court.
16. No appeal from such Officer in preparing such lists.
17. Lists to be published in the Gazette, and to be affixed to the Court-House.
18. 36 Special Jurors and 72 Common Jurors to be summoned for each Sessions.

Of Challenges of Jurors in the Presidency Towns.

19. 20 Common Jurors and 10 Special Jurors may be peremptorily challenged. The following to be good causes for additional challenges:—
(1.) Personal objections, such as alienage, infancy, old age.
(2.) Presumed or actual partiality.
(3.) A previous criminal conviction.
20. Judge to try challenges other than peremptory.
21. Except as hereby altered, Court to retain its present powers respecting summoning, empannelling, &c., and may make Rules not inconsistent with this Act.

Of Sitting under a Commission.

22. If the Governor-General in Council issue a Commission to any Judge of the High Court in Bengal to hold sittings at any other than the usual place of sittings, such Judge shall have the same jurisdiction, subject to the provision hereinafter contained, as if he had sat in the ordinary place of sitting.
23. Commission issued by the Governor in Council of Madras to a Judge of the High Court in that Presidency, to have the same effect.
24. Commission issued by the Governor in Council of Bombay to a Judge of the High Court there, to have the same effect.
25. High Court may allot to a Judge acting under such Commission any part of its extraordinary original civil jurisdiction, Civil and Criminal appellate jurisdiction, and jurisdiction as a Court of revision or reference.
26. Commission to specify time during which, and place within which it shall remain in force.

27. A Barrister at-Law of 5 years' standing or a Sessions Judge may, under such Commission, be appointed an Associate Judge.

28. High Court or a Judge thereof acting under Commission to determine the place of trial of every European British subject committed by a Justice of the Peace without the local limits of its jurisdiction

29 Such charge to have effect of a charge under Section 13 of the Code of Criminal Procedure if the trial be held at a place other than the place of usual sitting. Proceedings may be stayed if charge appear clearly unsustainable, as in Section 8

30. European British subject if not on bail, to be committed to the Jail of, or nearest to, the place of trial

31. High Court may direct such persons, committed in certain Districts or in certain seasons of the year, to be tried at a particular place and confined in a particular Jail.

32. Judge acting under Commission to have the jurisdiction and power of the High Court for the trial of such persons, but trial to be conducted, with exceptions given below, under the Code of Criminal Procedure as a trial before the Court of Session

33 Such Judge may exercise the powers of the Court of Session for the trial of persons committed before such Court

34. Trials under Commissions to be by Jury.

35. Court of Session, at request of High Court, to summon Jurors under Sections 336 to 340 of the Code of Criminal Procedure, and, if necessary, any Military Officers within 10 miles of its place of sitting.

36. An European British subject may demand a jury the majority of whom shall be Europeans or Americans, and if such Jury cannot be had, he shall be sent for trial at the usual place of sitting of the High Court.

37 In trials under Section 34, Jury to consist of 12, and unanimity, or a majority of 9 with the concurrence of the Judge, necessary for conviction.

38. In such trials, Clerk of the Crown may perform acts not of a judicial nature, required to be done by the Court of Session

39 Sentences of death, or other sentences in cases punishable by death, do not require confirmation or explanation under Section 380 of the Code.

40. Such Judge may pass judgment and record sentence and finding in such form as he shall think proper Provisions of Chapter 26 of the Code not to apply

41. Such Judge may reserve for decision of the High Court any question of law or of the admissibility of evidence. In such case, person convicted to be dealt with as a person sentenced by a Court of Session in a case requiring confirmation of the Sudder Court. If no question be reserved, sentence to be executed as a sentence of the Court of Session

42. Save as aforesaid, provisions of the Code of Criminal Procedure to apply to trials and sentences before a Judge acting under Commission

43 Such Judge may direct Associate Judge to try persons, not European British subjects, triable by himself. Such trial to be held entirely under the Code of Criminal Procedure Persons not tried under the Commission, to be tried by the Court of Session, as if this Act had not passed

44. Governor-General in Council may authorize any Barrister of 5 years standing to hold sittings under Commission at places hereinbefore referred to. Such Barrister to have the same jurisdiction and power as a Judge acting under Commission.

45, 46. Repealed.

An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original criminal jurisdiction, and also to provide for the exercise by such Courts of original criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows:

PRELIMINARY.

Short title.

I. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice." "Judge," &c.

"Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively, include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor, and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under Section 44 of this Act.

"Clerk of the Crown."

"British India" denotes the Territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vict., chap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

Words importing the masculine gender include females; words in the singular number include the plural, and words in the plural number include the singular.

Gender and Number.

Of Charges where the Accused is committed in a Presidency Town.

III. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed, within the local limits of its ordinary original civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original civil jurisdiction.

IV. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge, with such amendments, alterations, or additions, if any, gratis.

Clerk of the Crown to consider and, if he like, to amend alter, or add to the charge.

Charge with amendments, alterations, or additions, if any, to be recorded.

V. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Accused to have copies of examinations.

VI. Upon charges recorded as aforesaid, person committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and, subject to the provisions contained in Section 8 of this Act, shall be arraigned at the suit of the Crown, and the verdict shall be recorded thereupon.

Effect of charge.

VII. In Act XVIII. of 1862 *(to repeal Act XVI. of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature)* the word "indictment"

Provisions of Act XVIII. of 1862 *as to indictments to apply to charges preferred under this Act.*

shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Nolle prosequi on unsustainable charge.

VIII. When any such charge shall have been recorded in the High Court as aforesaid, and shall, at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate-General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Of Grand Juries.

After commencement of this Act, Grand Jury not to be summoned.

IX. No warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries, shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

X. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

Certain trials to be held before Special Jurors.

XI. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

XII. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Juror's Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last-mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

XIII. The number of persons included in the "Special Jurors'

The number of Special Jurors in the first list to be allowed to die down to two hundred.

List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the "Special Jurors' List."

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving on Common Juries.

XIV. All persons whose names are entered in the "Special Jurors' Lists" shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

XV. The Clerk of the Crown, or such other Officer as the Chief Justice of the High Court shall direct, shall, before the 1st day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the 15th day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent 15th day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Officer preparing the lists to have full discretion: no appeal from his decision.

XVI. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from, or review of, his decision.*

Lists of Jurors to be published in the Gazette.

XVII. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the 1st day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court-house.

Jurors and Special Jurors to be summoned for each Sessions.

XVIII. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Of Challenges of Jurors in the Presidency Towns.

Challenges.

XIX. Peremptory challenge, to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid, the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law, or rule having the force of law, for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

XX. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

High Court to retain its present jurisdiction as to Jurors in the Presidency Towns except as altered by this Act.

XXI. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall, so far as they are not inconsistent with this Act, remain in full force until repealed or altered by new rules made under this Section.

OF SITTINGS UNDER A COMMISSION.

Jurisdiction of Judge acting under Commission from Governor-General in Council.

XXII. Whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the 28th and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

XXIII. Whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction,

power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdictions in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the 28th and following Sections of this Act.

Jurisdiction of Judge, acting under Commission of Governor in Council of Bombay.

XXIV. Whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the 28th and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

XXV. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid such part of the extraordinary original civil jurisdiction, and of the civil and criminal appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall remain in force.

XXVI. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which, and the districts or places within which, such Commission shall remain in force; and such time and the limits of such districts or places shall be notified in the Official Gazette.

Power to appoint an Associate Judge.

XXVII. The Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may, by such Commission as aforesaid, associate with such Judge of the High Court any Barrister-at-Law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Wherever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary enquiry without the local limits

XXVIII. Any Justice of the Peace or Magistrate without the local limits of the ordinary original civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits, shall immediately after the

of the ordinary civil jurisdiction.

conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him, stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in Section 4, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under Section 5 of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid: Provided, always, that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent, to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Code of Criminal Procedure.

XXIX. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge.

If unsustainable, the proceedings may be stayed.

But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge, whether amended, altered, or added to as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under Sections 6, 7, and 8 of this Act.

Procedure pending directions of High Court.

XXX. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in Section 28 of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the

trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

XXXI. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct, further, that the notice required by Section 28 of this Act to be given, and the papers required by that Section to be sent, to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under Section 28 of this Act.

Jurisdiction over European British subjects tried under Commission.

XXXII. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid, in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

XXXIII. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he think fit, have and exercise the same jurisdiction, power, and authority in respect of

any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Sessions at the place and within the time in such Commission mentioned, as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

XXXIV. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

XXXV. Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the same Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned, shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty, or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid, shall be formed, in the manner required by the Code of Criminal Procedure and by this Act, from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subject.

XXXVI. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Number of Jury requisite to a verdict of guilty.

XXXVII. On every trial mentioned in Section 34 of this Act the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be neces-

sary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Acts not of a judicial nature may be done by Clerk of the Crown.

XXXVIII. During the trial of any person before a Judge of the High Court acting under Commission as aforesaid, or before a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by a High Court Judge.

XXXIX. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of the Code of Criminal Procedure not to apply to sentences of High Court Judge.

XL. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidnce.

XLI. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence, which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner, with a copy of his sentence and a warrant for the execution of the same, to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation.

Procedure where no such question reserved.

If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the District in which the trial took place, in like manner as is directed by Section 383 of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such

sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Save as aforesaid, the Criminal Procedure Code to apply to Juries under Commission.

XLII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

High Court Judge may direct Associate Judge to try any one triable under Commission, not an European British subject.

XLIII. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated, without exception, by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the District in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed, as if this Act had not passed.

Power of the Governor General of India in Council to appoint a Barrister to hold sittings under Commission at place not hereinbefore referred to.

XLIV. It shall be lawful for the Governor-General of India in Council by his commission to authorize and direct any Barrister-at-Law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in Sections 22, 23, and 24 of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

XLV and XLVI. *Repealed by the Repealing Act XIV.*, 1870.

ACT No. XIV. OF 1865.*

Central Provinces.

1. Act to be called "The Central Provinces Courts' Act, 1865"
2. "Assistant Commissioner" to include "Extra Assistant Commissioner"
3. Local jurisdiction of a Deputy Commissioner to be deemed a District, and his Court the District Court. Local jurisdiction of a Commissioner to be deemed a Division, and his Court a Divisional Court.
4. In addition to Small Cause Courts, there shall be—
   (1), (2) Courts of Tahsildars of 1st and 2nd Classes
   (3), (4), (5) Courts of Assistant Commissioners of 1st, 2nd, and 3rd Classes.
   (6) Court of the Deputy Commissioner.
   (7) Court of the Commissioner
   (8) Court of the Judicial Commissioner
5. Chief Commissioner to declare the grades of Tahsildars and Assistant Commissioners.
6. Naib Tahsildars may be invested with powers to try suits not exceeding Rs. 50 in value for money due, rent, or personal property, or damages

* Act XXVII., 1867, is to be read with, and taken as part of, this Act.

7. Tahsildar of 2nd Class may try all suits not exceeding Rs. 100 in value.
8. Tahsildar of 1st Class may try all suits not exceeding Rs. 300.
9. Assistant Commissioner of 3rd Class may try suits not exceeding Rs. 500.
10. Assistants of 2nd Class may try suits not exceeding Rs. 1,000.
11. Assistants of 1st Class may try suits not exceeding Rs. 5,000.
12. The Deputy Commissioner may try suits of any amount, and hear appeals from the decisions and orders of the Courts of the first four grades and of Naib Tahsildars.
13. The Commissioner may hear appeals from the original decisions and orders of the Courts of the 5th and 6th grades.
14. The Judicial Commissioner may hear appeals from the original decisions and orders of the Commissioners, and applications for special appeal from the decisions in regular appeal of the Deputy Commissioners and Commissioners.
15. Memorandum of regular appeal to be presented to the Deputy Commisioner within 30 days, to the Commissioner within 6 weeks, and to the Judicial Commissioner within 90 days. Special appeals to be preferred within the same period.
16. Any person may be invested with the powers of a Commissioner or Deputy Commissioner.
17. Suit to be instituted in the Court of the lowest competent grade. Suits cognizable by a Small Cause Court not to be heard in any other Court within the same limits.
18. Appeal to lie in all original suits, except when otherwise expressly provided.
19. Deputy Commissioner may distribute business among the subordinate Courts sitting at the same place.
20. Commissioner or Deputy Commissioner may transfer a suit from one subordinate Court to another, or may try it himself. Commissioner may also similarly withdraw and transfer appeals.
21. Judicial Commissioner may transfer suits and appeals from one Court to another, not being a Small Cause Court.
22. Suits for immoveable property situate in different districts may, with permission, be tried in any competent Court in whose jurisdiction any portion of the property lies.
23. If the property be situate in districts subject to different Commissioners, the Commissioner within whose Division the Court in which the suit is brought is situate, may give authority to proceed with the case.
24. Repealed.
25. Governor-General in Council may extend this Act to Oude, but not so as to affect Act XVI. of 1865. The Civil Judge of Lucknow to be then considered a Deputy Commissioner, and the Assistant Judge an Assistant of the 3rd Class. Appeals from Civil Judge to lie to the Judicial Commissioner.

An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows:

Short title.

I. This Act shall be called "The Central Provinces Courts' Act, 1865.

Interpretation Clause.

II. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes Extra Assistant Commissioner.

"District."

"Division."

III. For the purposed of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Central Provinces.

IV. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

(1.) The Court of the Tahsildar of the second class.
(2.) The Court of the Tahsildar of the first class.
(3.) The Court of the Assistant Commissioner of the third class.
(4.) The Court of the Assistant Commissioner of the second class.
(5.) The Court of the Assistant Commissioner of the first class.
(6.) The Court of the Deputy Commissioner.
(7.) The Court of the Commissioner.
(8.) The Court of the Judicial Commissioner.

Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.

V. Subject to any orders that may from time to time be issued by the local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Chief Commissioner may give Naib Tahsildars jurisdiction up to 50 Rupees.

VI. The Chief Commissioner may, with the sanction of the local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of 50 Rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

Jurisdiction of Court of Tahsildar of the second class.

VII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding 100 Rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

VIII. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding 300 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

IX. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

X. The Court of the Assistant Commissioner of the second class shall have power to try aud determine suits of every description not exceeding 1,000 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XI. The Court of Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades, and of Naib Tahsildars invested as aforesaid.

Jurisdiction of Court of Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the orignal decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

Jurisdiction of Court of Judicial Commissioner.

XIV. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original* decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Time for presenting appeals.

XV. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period here-

* Original jurisdiction, except as provided by Section 20, does not appear to be given to the Commissioner by this Act. See Section 13.

inafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum of appeal within the said period: that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division; and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

XVI. Whenever the state of the public business requires it, the local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

Court in which suit shall be instituted.

XVII. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions except when expressly prohibited.

XVIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

The Deputy Commissioner may distribute business among the Courts subordinate to him.

XIX. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate to Commissioner's or Deputy Commissioner's Court.

XX. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court, competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

The Judicial Commissioner may transfer suits from one subordinate Court to another.

XXI. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XXII. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of such property is situate, but in such case the Court

in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XXIII. If the District Courts within the limits of whose jurisdiction the immoveable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

XXIV. *Repealed by the Repealing Act XIV.*, 1870.

Act may be extended to Oude.

XXV. The Governor-General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI. of 1865 *(to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits)*. On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

ACT No. XV. OF 1865.

General.

I.—PRELIMINARY.

1.—Act may be cited as "The Parsee Marriage and Divorce Act, 1865."
2.—Interpretation.

II.—OF MARRIAGES BETWEEN PARSEES.

3. After this Act no marriage to be valid if between Parsees of the prohibited degrees of consanguinity or affinity, or performed according to other than the ceremony called "Asirvad" by a Parsee priest before two witnesses, or without lawful consent if either party be a minor.
4. No married person to marry again, except after a lawful divorce.
5 A married Parsee marrying again without a divorce liable to be punished under Sections 494 and 495 of the Penal Code.
6. Certificate of marriage to be signed by the priest, the contracting parties, or their fathers or guardians if they be minors, and to witnesses, and to be registered on payment of a fee
7. A Registrar to be appointed who may be appointed and removed by the Chief Justice if within the local limits of the High Court, but otherwise by the local Government.
8. Register to be open to inspection, and certified extracts therefrom to be given on payment of a fee of Rs 2
9 Priest solemnizing marriage contrary to Section 4, liable to 6 months' simple imprisonment, or Rs. 200 fine, or both.
10. Priest neglecting the provisions of Section 6, liable to 3 months' simple imprisonment, or Rs. 100 fine, or both.
11. Other person required to subscribe or attest certificate, neglecting so to do, liable to Rs 100 fine.
12. Person making, signing, or attesting a false certificate, to be deemed guilty of forgery under Section 466 of the Penal Code
13 Registrar failing to register certificate liable to one year's simple imprisonment, or Rs. 1,000 fine, or both.
14. Person secreting, destroying, or altering Register liable to 2 years' imprisonment, or, if he be a Registrar to 5 years' imprisonment, and Rs. 500 fine.

III.—OF PARSEE MATRIMONIAL COURTS.

15. Special Courts to be be constituted in the Presidency Towns and in other places for hearing suits under this Act.

16 Presidency Courts to be styled the Parsee Chief Matrimonial Courts, and to have jurisdiction conterminous with the local limits of the High Court The Chief Justice or other Judge appointed by him to be the Judge of such Court and to be aided by 11 Delegates

17. The other Courts, to be styled Parsee District Matrimonial Courts, and to have jurisdiction conterminous with the limits of the Districts, and to be presided over by the Judge of the Principal Civil Court aided by 7 Delegates

18 Local Government may alter limits of such District Courts and include any number of Districts within such limits.

19 Any District not included within the limits of a District Court, to be included within the jurisdiction of the Chief Court

20 Decrees and orders to be sealed with a seal to be kept by the presiding Judge

21 Local Government to appoint not more than 30 Parsee Delegates in a Presidency Town, and 20 in a District

22 If a Delegate die, or refuse or become unfit to act, another Parsee may be appointed in his stead.

23 Delegates to be public servants under the Penal Code

24 Delegates selected to aid in the adjudication of suits, to be taken from those appointed under Section 21

25 Advocates, Vakeels, and Attorney entitled to practise in the High Courts, may practise in any Court under this Act. Vakeels of any District Court may practise in a District Matrimonial Court

26 Suit to be brought in the Court within whose jurisdiction defendant resided at the time of institution thereof If defendant have left India suit to be brought in the Court at the place where plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a) *For a decree of Nullity.*

27. A marriage may be annulled if one of the parties were, at the time of marriage, but unknown to the other party, a lunatic, and continued to be so

28. If consummation be from natural causes impossible, the marriage may be annulled.

(b) *For a decree of dissolution in case of absence.*

29 A marriage may be dissolved at the instance of either party, if one of them has been continually absent from the other, and has not been heard of for 7 years.

(c) *For Divorce or Judicial separation.*

30 A husband may sue for a divorce for his wife's adultery. A wife may sue for a divorce on the ground that her husband has been guilty of adultery with a married woman, or fornication with an unmarried woman not a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with desertion for 2 years, or of rape, or of an unnatural offence. In a suit by the husband, the Court may order the adulterer to pay costs

31 If a wife be treated with great cruelty or personal violence, or if a prostitute be openly brought or allowed to remain in the wife's abode, she may demand a judicial separation

32 Court to decree divorce or judicial separation, if satisfied of the truth of the complaint and that the offence has not been condoned or connived at, and that there has been no collusion between the parties

33 Court may order a monthly or weekly payment, not exceeding one-fifth of the husband's income, to be given to the wife during the continuation of a suit

34 Court may, on passing a decree for divorce or judicial separation, order the settlement on the wife for life of a gross sum of periodical payment of money. In case order be disobeyed, husband liable for damages, or to a suit for necessaries.

35. Court may order alimony to be paid to the wife or a person in trust for her.

(d) *For restitution of conjugal rights.*

36. Court may order restitution of conjugal rights on the desertion, without lawful cause, of a husband or wife Person disobeying order liable to one month's simple imprisonment, or Rs 200 fine, or both.

37 No suit to be brought to enforce marriage when the husband is under 16 years or the wife under 14 years

38 Case to be tried with closed doors, if either party desire it.

39. Repealed

40 The Code of Civil Procedure, so far as applicable, to apply to suits under this Act

41 Questions of law and procedure to be determined by the Judge, but the facts to be decided by a majority of the Delegates

42 Appeal to lie to High Court, within 3 months, on the ground of the decision being contrary to some law or usage, or of a substantial error or defect in procedure producing error or defect in the decision.

43 Parties may marry again on expiration of the period allowed for appeal, or on the dismissal thereof, or if the result of the appeal be the dissolution of the marriage.

V.—Of the Children of the Parties.

44. Court may, *pendente lite*, and from time to time after decree, pass orders for the custody, maintenance, and education of children under 16 years

45 On passing a decree of divorce or separation for adultery of the wife, Court may order settlement of the wife's property for the benefit of the children.

VI.—Of the mode of enforcing Penalties under this Act.

46 Offences under this Act to be tried by a Magistrate or Court of Session according to the punishment provided for the offence

47 Offences punishable with fine and imprisonment not exceeding 6 months, committed within the local limits of the High Court, to be punishable by a Magistrate of Police.

48 Fines may be levied by distress and sale of moveables.

49 Offender may, unless he give sufficient security, be kept in custody until the return of the distress warrant.

50. If fine cannot be levied, offender may be committed to prison.

VII.—Miscellaneous.

51 High Court to make Rules of practice and procedure for the Parsee Chief and District Matrimonial Courts

52 Chief Executive Officer of any territory under the immediate administration of the Government of India may be invested with the powers of a High Court under this Act.

53. Act to extend to the whole of India.

An Act to define and amend the law relating to Marriage and Divorce among the Parsees.

Preamble.

Whereas the Parsee community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows:

I.—PRELIMINARY.

Short title.

I. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

Number.

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest."

"Priest" means a Parsee Priest and includes Dastúr and Mobed.

"Marriage."

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and

"Husband" and "Wife."

"husband" and "wife" respectively mean a Parsee husband and a Parsee wife.

"Section"

"Section" means a Section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India."

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India."

"Local Government."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a local Government;

"High Court."

and "High Court" means the highest Civil Court of appeal in such part.

II.—OF MARRIAGES BETWEEN PARSEES.

Requisites to validity of Parsee marriage.

III. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor-General of India in Council shall, after due enquiry, publish in the *Gazette of India*, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Asírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

Re-marriage, save after divorce, unlawful

IV. No Parsee shall, after the commencement of this Act, contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorce

during life-time of first wife or husband.

from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

Punishment of bigamy.

V. Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections 494 and 495 of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

Certificate and registry of marriages.

VI. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate, together with a fee of two rupees to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar, on receipt of the certificate and fee, shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Appointment of Registrar.

VII. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the local Government. Every Registrar so appointed may be removed by the Chief Justice or local Government appointing him.

Marriage register to be open for public inspection.

VIII. The register of marriages mentioned in Section 6 shall at all reasonable times be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Penalty for solemnizing marriage contrary to Section 4.

IX. Any Priest knowingly and wilfully solemnizing any marriage contrary to, and in violation of, Section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to 200 Rupees, or with both.

Penalty for Priest's neglect of requirements of Section 6.

X. Any Priest neglecting to comply with any of the requisitions affecting him contained in Section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to 100 Rupees, or with both.

Penalty for omitting to subscribe and attest the certificate.

XI. Every other person required by Section 6 to subscribe or attest the said certificate, who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding 100 Rupees.

Penalty for making, &c., false certificate.

XII. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section 466 of the said Code.

Penalty for failing to register certificate.

XIII. Any Registrar failing to enter the said certificate pursuant to Section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to 1,000 Rupees, or with both.

Penalty for secreting, destroying, or altering the register.

XIV. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to 500 Rupees.

III.—Of Parsee Matrimonial Courts.

Constitution of special Courts under this Act.

XV. For the purpose of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras, and Bombay, and in such other places in the Territories of the several local Governments as such Governments respectively shall think fit.

Parsee Chief Matrimonial Court.

XVI. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras, or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

Parsee District Matrimonial Courts.

XVII. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the principal Court of original civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

Power to alter territorial jurisdiction of District Courts.

XVIII. The local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

Certain Districts to be within the jurisdic-

XIX. Any District which the local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any

tion of the Chief Matrimonial Court.

District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the territories under such local Government, where there is such Court.

Court Seal.

XX. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of Delegates.

XXI. The local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees, their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

Power to appoint new Delegates.

XXII. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

Delegates to be deemed public servants.

XXIII. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code,

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

XXIV. The Delegates selected under Sections 16 and 17 to aid in the adjudication of suits under this Act, shall be taken, under the orders of the presiding Judge of the Court, in due rotation from the Delegates appointed by the local Government under Section. 21.

Practitioners in Matrimonial Courts.

XXV. All Advocates, Vakeels, and Attorneys-at-Law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

Court in which suits to be brought.

When defendant has left British India.

XXVI. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left Britsh India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a.) *For a decree of Nullity.*

In case of lunacy or mental unsoundness.

XXVII. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void, upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and

still continues: Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of non-consummation owing to physical causes.

XXVIII. In any case which in consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(*b.*) *For a Decree of Dissolution in case of Absence.*

In case of absence for seven years.

XXIX. If a husband or wife shall have been continually absent from his wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

(*c.*) *For Divorce or Judicial Separation.*

On the ground of the wife's adultery.

XXX. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

On the ground of the husband's adultery, &c.

Grounds of judicial separation.

XXXI. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Suits for divorce or judicial separation.

XXXII. In a suit for divorce or judicial separation under this Act if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Alimony pendente lite.

XXXIII. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independant income sufficient for her support and the necessary expenses of the suit, the Court, on the application of

the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent alimony.

XXXIV. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husbands's ability, and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties, and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Payment of alimony to wife or to her trustee.

XXXV. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(*d.*) *For Restitution of Conjugal Rights.*

Suit for restitution of conjugal rights.

XXXVI. Where a husban shall have deserted or without lawful cause cease to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 200 Rupees, or with both.

No suit to be brought to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.

XXXVII. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

Suits may be heard with closed doors.

XXXVIII. In every suit preferred under this Act, the case shall be tried with closed doors, should such be the wish of either of the parties.

XXXIX. *Repealed by Act VII.*, 1870, *Section* 2, *Schedule* 3.

Provisions of Civil Procedure Code to apply in suits under this Act.

XL. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

Determination of questions of law and procedure, and of fact.

XLI. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

Appeal to High Court.

XLII. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

Liberty to the parties to marry again.

XLIII. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

Custody of children pendente lite.

Orders as to custody of children after final decree.

XLIV. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance, and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of such children, as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Settlement of wife's property for benefit of children.

XLV. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

Cognizance of offences under this Act.

XLVI. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act

exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court

XLVII. If any offence which by this Act is declared to be punnishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of fines by distress.

XLVIII. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the fine.

Procedure until return is made to distress warrant.

XLIX. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security, to the satisfaction of such Officer, for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

L. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—Miscellaneous.

Rules of Procedure of Parsee Matrimonial Courts to be made by the High Court.

LI. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations, and alterations shall be published in the Official Gazette.

Power to invest Chief Executive Officer with powers of Local Government.

LII. The Governor-General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a local Government.

Extent of Act.

LIII. This Act shall extend to the whole of British India.

SCHEDULE *(See Section 6.)*

Date and Place of Marriage.	Names of the Husband and Wife.	Condition at the time of Marriage.	Rank or Profession.	Age.	Residence.	Names of the Fathers or Guardians.	Rank or Profession.	Signature of the Officiating Priest.	Signature of the Witnesses.	Signature of father or guardian when husband or wife is an infant.

ACT No. XVI. OF 1865.

Oude.

1. Interpretation.
2. Suits and appeals relating solely to land during progress of Revenue Settlement and during any further time appointed, to be cognizable by the Courts of Revenue and the Financial Commissioner. Governor-General in Council to fix the periods within which appeals in such cases may be preferred.
3. Financial Commissioner to be deemed the Highest Court of Appeal, and to exercise the powers of the Sudder Court under the Code of Civil Procedure as in force in the Province. The Courts subordinate to him to be regulated by the same procedure.
4. Suits cognizable under this Act not to be tried by any other Court or Authority during the period limited in Section 2.
5. Suits relating to under-tenures cognizable under this Act, except such as are held at will, or with the right of occupancy, or at fixed favorable rates, not to be debarred from hearing under the rules of limitation, if the cause of action arose on or after 13th February, 1844.
6. Such suits, if so rejected or dismissed, may be revived and heard on the merits, on petition made within 6 months from the passing of this Act.
7. Suits instituted after the period appointed in Section 2, to be heard in the Civil Courts under the Code of Civil Procedure.
8. Orders and decisions passed by the Revenue Courts subsequent to the extension of the Code of Civil Procedure and before the passing of this Act, not to be invalid.

An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.

Preamble.

Whereas, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and after that office became vacant, in the Chief Commissioner; And whereas since the introduction of the said Code doubts have arisen whether such suits are cognizable in the first instance by the ordinary Civil Courts and on appeal by the Judicial Commissioner, or in the first instance by the Revenue Courts and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; And whereas it is expedient to remove such doubts, and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows:

Interpretation Clause.

I. In the construction of this Act, except where there is something repugnant in the subject or context—

Number.

Words in the singular number shall include the plural, and words in the plural number shall include the singular.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

Suits and appeals relating to land during progress of Revenue Settlement, to be cognizable by Courts of Revenue and Financial Commissioner.

II. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

Powers of the Financial Commissioner as the highest Court of appeal.

III. The Financial Commissioner shall with respect to suits cognizable by the Revenue Courts under Section 2 of this Act, be deemed the highest Court of Appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise, in respect of such suits, all the powers vested in the Sudder Court, and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations, and provisos with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August, 1861. Subject to the same restrictions, limitations, and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Court or authority before specified.

IV. Subject to the proviso in Section 2 of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land, shall, during the period limited in the said Section, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Limitation rules not to apply to suits relating to under-tenures.

V. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the 13th day of February, 1844: Provided that this Section shall not

apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favorable rates.

Certain suits relating to under-tenures dismissed on the ground of limitation bar, may be revived.

VI. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section,) cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

Procedure as to suits relating to land instituted after period mentioned in Section 2.

VII. All suits relating to the proprietary right in, succession to, or posssession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in Section 2 of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

VIII. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to, or possession of, any land, or to any right in respect of any land, in the said Province, shall be invalid by reason of anything contained in the said Code.

ACT No. XIX. OF 1865.*

1. Act to be called "The Punjab Court's Act, 1865."
2. Interpretation.
3. Local jurisdiction of a Deputy Commissioner to be deemed a District, and his Court a District Court. Local jurisdiction of a Commissioner to be deemed a Division, and his Court a Divisional Court.
4. In addition to Small Cause Courts there shall be—
   (1)—The Court of the Tahsildar.
   (2), (3), (4.)—Courts of Assistant Commissioners with ordinary, special, and full powers.
   (5)—The Court of the Deputy Commissioner.
   (6)—The Court of Commissioner
   (7.)—The Court of the Judicial Commissioner.
5. Tahsildar may be invested with power to try suits not exceeding Rs. 3,000 in value.
6. Naib Tahsildar may be specially invested with the same powers, subject to withdrawal thereof.
7. Assistant Commissioner with ordinary powers may try suits not exceeding Rs. 100 in value.
8. Assistant with special powers may try suits not exceeding Rs 500 in value
9. Three preceding grades may exercise criminal powers under Section 23 of the Code of Criminal Procedure.

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* Act XXVII., 1867, is to be read with, and taken as part of, this Act.

By Act III, 1868, the local Government is authorized to invest any person with the powers af an Assistant Commissioner or of a Tahsildar under this Act.

As to appeals to the Courts established under this Act, see Act VII., 1868, Sec. 3.

10. Assistant Commissioner with full powers may try suits not exceeding Rs. 10,000 in value, and may exercise the powers of a Magistrate under the said Code.

11. Deputy Commissioner may try suits of any amount, and hear appeals from the three lowest Courts; and may exercise the powers of a Magistrate and hear appeals from Subordinate Magistrates. He may also be invested with the powers described in Act XV. of 1862.

12. Commissioner may try suits of any amount, and hear appeals from Courts of the 4th and 5th grade; may exercise the powers of a Sessions Judge, and hear appeals from the subordinate Courts.

13. Suit to lie in Court of lowest grade. Suits cognizable by a Small Cause Court not to heard by any other.

14. Deputy Commissioner may distribute business amongst the Subordinate Courts sitting in the same place.

15. Commissioner or Deputy Commissioner may transfer a suit from one subordinate Court to another, or may try it himself. Commissioner may also withdraw and transfer appeals.

16. Judicial Commissioner may transfer suits and appeals from one Court to another, not being a Small Cause Court.

17. Suits for immoveable property within the jurisdiction of different Courts may, with the permission of the District Court, be heard by any such Court.

18. Suits for immoveable property situate in different Districts may, with the permission of the Commissioner, be tried in any such Court, if competent.

19. If the property be situate in Districts subject to different Commissioners, the Commissioner within whose Division the Court in which the suit is brought is situate, may give authority to proceed with the case.

20. To prevent the accumulation of arrears, local Government may invest any officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner.

21. During the progress of any Revenue settlement, the Courts may be empowered to try suits relating to land on the Revenue side, and special Officers may be appointed to exercise the same powers.

22. During such time, Financial Commissioner may be invested with the powers of the Judicial Commissioner for the purpose of trying appeals and special appeals in land cases.

23. Revenue Courts and Financial Commissioner not to have jurisdiction, if the case do not relate exclusively to land.

24, 25. Repealed.

An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows:

Short title.

I. This Act shall be called "The Punjab Courts' Act, 1865."

Interpretation Clause.

II. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

"District."
"Division."

III. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Punjab.

IV. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, unless otherwise provided in such Act, namely:—

(1.)—The Court of the Tahsildar.
(2.)—The Court of the Assistant Commissioner with ordinary powers.
(3.)—The Court of the Assistant Commissioner with special powers.
(4.)—The Court of the Assistant Commissioner with full powers.
(5.)—The Court of the Deputy Commissioner.
(6.)—The Court of the Commissioner.
(7.)—The Court of the Judicial Commissioner.

Jurisdiction of Tahsildar.

V. The local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding 300 Rupees in value or amount.

Local Government may in special cases give Naib Tahsildars powers of Tahsildar.

VI. The local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

Jurisdiction of Assistant Commissioner with ordinary powers.

VII. The Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding 100 Rupees in value or amount.

Jurisdiction of Assistant Commissioner with special powers.

VIII. The Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding 500 Rupees in value or amount.

Criminal powers to be exercised by Courts of the 1st, 2nd, and 3rd grades.

IX. The Criminal powers to be exercised by the Courts of the said first, second, and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the local Government under Section 23 of the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

X. The Assistant Commissioner with full powers shall, on the civil side, have power to try and determine suits of every description under 10,000 Rupees in value or amount, and on the criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

XI. The Deputy Commissioner shall, on the civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in Section 4 of this Act, and, on the criminal side, to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the local Government with the powers described in Act XV. of 1862 *(to amend the Code of Criminal Procedure.)*

Jurisdiction of Commissioner.

XII. The Commissioner shall, on the civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

Court in which suit shall be instituted.

XIII. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdic-

tion within the local limits of the jurisdiction of such Court of Small Causes.

Distribution of business in Courts subordinate to Deputy Commissioner.

XIV. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

Powers of Commissioner and Deputy Commissioner to withdraw suits from subordinate Courts.

XV. The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Power of Judicial Commissioner to transfer suits.

XVI. The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

Suits for immoveable property situate within different jurisdictions of single District.

XVII. If the suit be for immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

Suits for immoveable property situated in different Districts.

XVIII. If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XIX. If the Districts within the limits of which the immoveable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

Local Government may invest additional Officers with the powers of a Deputy Commissioner or Commissioner.

XX. Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the local Government may, with the previous sanction of the Governor-General of India in Council, invest any Officer with the civil and criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

Local Government may invest special Officer with Civil powers of Commissioners, &c., in Districts in course of settlement.

XXI. In any District in which a Settlement of Land Revenue is in progress, the local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioner, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land, or the rent, revenue, or produce of land, on the revenue and not on the civil side of their Courts. The local Government may also, with the previous sanction of the Governor-General of India in Council, invest any special Officer in such District with the civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue, or produce of land, such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation shall be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.

Local Government may invest the Financial Commissioner with powers of Chief Court for certain purposes.

XXII. In any District in which a Settlement of Land Revenue is in progress, the local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under Section 21 of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land: Provided that in the trial of such appeals no deviation shall be allowed from the rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid, the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

Proviso.

Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.

XXIII. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under Section 21 or 22 of this Act.

XXIV. and XXV. *Repealed by the Repealing Act XIV.*, 1870.

ACT No. XX. OF 1865.*

Bengal.

PRELIMINARY.

1. Act may be cited as "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865.",
2. Interpretation.
3. Repealed.

OF THE PLEADERS AND MOOKHTARS.

4. High Court to make Rules for the qualification, admission, suspension, and dismissal of Pleaders and Mookhtars, and for the fees to be paid by them.
5 No person (except existing Pleaders) to practise as a Pleader or Mookhtar, unless duly qualified and enrolled under this Act.
6. Local Government to appoint Examiners and to regulate the conduct of examinations.
7. High Court to book the name of every Pleader and Mookhtar admitted under this Act.
8. Pleaders and Mookhtars to be provided with certificates, to be renewed as under Section 9.
9. Certificate to be on Stamp Paper supplied by the applicant, to be in force for one year, and to be renewed at desire.
10. A certificate authorizing a Pleader to practise in the High Court and subordinate Courts to be on Stamp paper of the value of Rs. 50—in the District Court, Subordinate Courts, and Small Cause Courts, Rs 25—in the Sudder Ameen's and Moonsiffs', Assistant Commissioners', and Tashildars' Courts, Rs. 15—in the Moonsiffs' Courts, Rs. 5—A certificate authorizing a Mookhtar to act in the High Court and Subordinate Courts, Rs 25—in the District Courts, Subordinate Courts, and Small Cause Courts, Rs 16—in the Courts of Commissioners of Circuit, Magistrates, Sudder Ameen, Moonsiffs, Assistant Commissioners, and Tashildars, Rs 8—in Moonsiffs' Courts, 4 Rs.
11. Pleaders may plead and act in any Criminal Court or Revenue Office within the general jurisdiction of the High Court in which they are enrolled. Mookhtars may act in any Civil Court, and may plead in any Criminal Court.
12. Pleaders and Mookhtars to be enrolled in the Court in which they ordinarily intend to practise.
13. Pleader or Mookhtar practising without certificate, liable to ten times the Stamp Duty, and in default to 6 months' imprisonment, and to be also incapable of recovering fees and disbursements.
14. High Court may suspend or dismiss any Pleader or Mookhtar convicted of a Criminal offence.
15. Or guilty of fraudulent or improper conduct.
16. High Court may, on report of such conduct made by a Subordinate Court after due investigation, suspend or dismiss Pleaders. Pending orders, Subordinate Court may suspend.
17. If a Subordinate Court, after investigation, acquit a Pleader or Mookhtar charged with misconduct, High Court may call for the record and pass orders thereon.
18. Pleader or Mookhtar failing to deliver certificate when suspended or dismissed, liable to Rs. 200 fine, and in default, to imprisonment in the Civil Jail for 3 months.

OF AGENTS PRACTISING IN THE REVENUE COURTS.

19. Except Pleaders and persons authorized by general or special power of Attorney, no person to practise as an Agent in any Revenue Office, without having a certificate from the Board of Revenue. Such certificate may be renewed by the Board's Secretary or a District Collector.
20. Names of Agents to be enrolled by the Board.
21. Certificate to be on Stamp Paper, and to continue in force for one year.
22. Certificate authorizing an Agent to practise in the Board of Revenue or any subordinate Office, to be on Stamp Paper of the value of Rs. 15—in the Commissioner's and Subordinate Offices, Rs. 10—in the Collectors' and Subordinate Offices, Rs 5.
23. Board to make Rules of qualification for Agents.
24. Local Government to appoint Examiners.
25. Agent to be enrolled in the Office in which he intends to practise, but may practise in any other Office of the class for which he holds a certificate.
26. Board may suspend or dismiss any Agent convicted of a Criminal offence.
27. Also an Agent practising before itself who may be guilty of fraudulent or improper conduct in his professional duties.
28. High Court may, on the report of the Board that a Pleader has been guilty of such conduct while practising before it, suspend or dismiss such Pleader. Pending orders, Board may suspend Pleader from practising before it.
29. Person guilty of such conduct before a Subordinate Officer, may, if a Pleader, be suspended or dismissed by the High Court on the report of the Board of Revenue, and if an Agent, by the Board on the report of such Subordinate Officer.
30. If a Subordinate Revenue Officer after investigation, acquit a Pleader or Agent charged with such conduct, the Board may call for the record, and, subject to Section 28, pass orders thereon.
31. If an Agent who is also a Mookhtar be dismissed or suspended by the Board, the High Court may, on the Board's report, suspend or dismiss him as such Mookhtar.
32. Section 18 to apply to Pleader or Mookhtar suspended or dismissed under Section 28, 29, or 31.
33. Agent failing to deliver up certificate when suspended or dismissed, liable to Rs. 200 fine, and in default, to imprisonment in the Civil Jail for 3 months.
34. Person practising as an Agent without holding a certificate, liable to Rs. 200 fine, and in default, to imprisonment in the Civil Jail for 3 months, and to be also incapable of recovering fees and disbursements.
35. Any person may be employed to conduct another's business in a Revenue Office, but such person must hold a power of Attorney and receive the sanction of the Board.
36. Such sanction may be revoked or suspended, and if such person practise under Section 19 during such revocation or suspension, he shall be liable under Section 33.

OF THE REMUNERATION OF PLEADERS AND REVENUE AGENTS.

37. Fees of Adversary's Pleader or Agent to be fixed by High Court or Board, as the case may be.
38. Preceding Section not to apply to Agents under Section 35.
39. Persons may make private agreements as to remuneration with Pleaders, Mookhtars, and Agent. Such agreements may be enforced by regular suit.

MISCELLANEOUS.

40. A suitor may appear on behalf of a co-suitor, and in Criminal Courts a Pleader or Mookhtar may employ any person to assist him in defending a case; but such persons not entitled to recover fees.

* Act XXIX. of 1866 is to be read with, and taken as part of, this Act.

41. Rules made under Sections 4 and 23 to be published. Such Rules, if made by a High Court not established by Charter, to be subject to the approval of the local Government.
42. Orders imposing fines passed by a Subordinate Court or Revenue Officer, subject to revision by the High Court and Board respectively.
43. Existing Pleaders may be enrolled under this Act.
44. This Act, except Section 39, not to apply to Advocates, Vakeels, and Attorneys enrolled in a High Court under its Letters Patent, nor to Mookhtars of such Courts. But the Court may make Rule, regarding the admission, suspension, and dismissal of such Mookhtars. The Court may also fix the fees of an Adversary's Vakeel in the appellate side.
45. Advocates and Vakeels of a High Court entitled to practise in any Court other than another High Court, and in any Revenue Office.
46. Attorneys entitled to practise in any Court other than a High Court established by Charter, and in any Revenue Office.
47. Act to take effect in Bengal and the North-Western Provinces on 1st January, 1866, and may be extended by any local Government to the territories under its Government.
48. When so extended such, of the Regulations in force in such place as are inconsistent with this Act, to cease to have effect.

An Act to amend the law relating to Pleaders and Mookhtars.

Preamble. Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows:

PRELIMINARY.

Short title. I. This Act may be cited as "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865."

Interpretation of terms. II. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number. Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section." "Section" means a Section of this Act.

"Person." "Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader." "Pleader" includes Vakeels.

"Collector." "Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate." "Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge." "Judge" means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court." "Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District." "District Court." "District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner or any other Court in the territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"Local Government." "High Court." "Board of Revenue." And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part. "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

III. *Repealed by the Repealing Act XIV.*, 1870.

OF PLEADERS AND MOOKHTARS.

High Court to make rules for qualification, IV. The High Court is hereby authorized and required, within six months after this Act shall take effect in the territories in which such Court exercises jurisdiction,

&c., of Pleaders and Mookhtars.

to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time vary and add to such rules.

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.

V. Except as hereinafter provided, no person shall appear, plead, or act as a Pleader, or appear or act as Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Saving of Pleaders already qualified.

Local Government to appoint Examiners.

VI. To facilitate the ascertainment of the qualifications mentioned in Section 4, the local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

VII. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

VIII. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in Section 9, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

IX. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the

certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

X. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—fifty Rupees:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—twenty-five Rupees:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—fifteen Rupees:

(*d.*) In the Moonsiffs, Courts or any Court of first instance not hereinbefore mentioned—five Rupees.

On a certificate authorizing the holder to practise as a Mookhtar—

(*e.*) In the High Court and any subordinate Court—twenty-five Rupees:

(*f.*) In the District Courts, subordinate Courts, and Small Cause Courts—sixteen Rupees:

(*g.*) In the Courts of the Commissioners of Circuit, Magistrates and subordinate Magistrates: In Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—eight Rupees:

(*h.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—four Rupees.

Pleaders may practise in Criminal Courts and Revenue Offices.

XI. Pleaders duly admitted and enrolled under this Act may appear, plead, and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled.

Mookhtars may plead in Criminal Courts.

Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear, and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Pleaders and Mookhtars to be enrolled in the Courts in which they intend to practise.

XII. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court: Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment, and to

XIII. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be

be incapable of recovering fees.

liable, by order of such Court or the Officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

XIV. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

XV. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid, who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

XVI. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend, or dismiss the Pleader or Mookhtar. Such report, when made by an Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Suspension pending investigation.

High Court may call for the record in case of acquittal under Section 16.

XVII. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board; unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate when renewed as provided in Section 31 may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

Names of Revenue Agents to be enrolled.

XX. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Form of certificate.

XXI. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the persons entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certicate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Value of stamp.

XXII. The stamp on such certificate, whether original or renewed, shall be of the following value :—

On a certificate authorizing the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board —fifteen Rupees :

In the Office of a Commissioner or in any Office subordinate to a Commissioner—ten Rupees :

In the Office of a Collector or in any Office subordinate to a Collector—five Rupees.

Revenue Board to ascertain qualifications of Revenue Agents.

XXIII. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required, within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Local Government to appoint Examiners.

XXIV. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

Enrolment of Revenue Agent in Office in which he shall usually practise.

XXV. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices within the limits of the territory under the Board of Revenue in which he is enrolled.

The Board may suspend or dismiss Revenue Agent convicted of criminal offence.

XXVI. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

The Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

XXVII. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

XXVIII. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practise, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend, or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension, or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to the Board

XXIX. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged at least ten days

before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend, or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend, or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension, or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Power to Board to call for record.

XXX. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of Section 28.

Report to High Court when the Revenue Agent is also an enrolled Mookhtar.

XXXI. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any enquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Section 28, 29, or 31.

XXXII. The provisions of Section 18 shall apply to any Pleader or Mookhtar suspended or dismissed under Section 28, 29, or 31.

Dismissed Agent to surrender his certificate.

XXXIII. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding 200, Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months.

Penalty on an unqualified person practising as Agent.

XXXIV. Every person who shall practise as a Revenue Agent in any Revenue Office in the territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable, by order of the Board or Officer in whose Office he shall so practise, to a fine not exceeding 200 Rupees, and, in default of payment, to imprisonment in the Civil jail for a period which may extend to three calendar months. The person

so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

XXXV. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or a special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided, also, that no person shall act as last aforesaid, unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the local Government to grant such sanction.

Sanction required.

Sanction may be revoked or suspended.

XXXVI. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under Section 19 during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in Section 33.

Of the Remuneration of Pleaders and Revenue Agents.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

XXXVII. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

Section 37 not to apply to Agents appointed under Section 35.

XXXVIII. The provisions of the last preceding Section shall not be applicable to Agents appointed under Section 35.

Clients may make private agreements with their Pleaders, Mookhtars, or Revenue Agents as to remuneration.

XXXIX. Parties employing Pleaders, Mookhtars, or Revenue Agents, in any Court or Office, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

A suitor may appear for any co-suitor.

Prisoners may employ any assistant.

Fees not recoverable by such persons.

XL. Any suitor may appear, plead, and act in any suit, appeal, or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting, or assisting, shall be entitled to recover any fee or reward therefor.

Rules to be published in the Gazette.

XLI. The rules mentioned in Sections 4 and 23, and all variations of, and additions to, such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to, and approved by, the local Government.

Fines subject to revision.

XLII. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

Pleaders in the subordinate Courts may apply to the District Judge for enrolment.

XLIII. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in Sections 8, 9, and 10. Applications for enrolment under this Sections, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

Act not to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent.

XLIV. With the exception of Section 39, this Act shall not apply to Advocates, Vakeels, and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension, and dismissal of the Mookhtars practising on the appellate side of such Court, and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties: Provided, also, that the High Court may from time to time fix and regulate the fees which shall be payable, on all proceedings on the appellate side of such Court, by any party in respect of the fees of his adversary's Vakeel. The rules, penalties, and fees so made, prescribed, and fixed, and every variation thereof, shall be published in three consecutive numbers of the Official Gazette.

Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

XLV. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office; subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Revenue Agents: Provided that no such Vakeel shall be entitled to practise under this

Section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction.

Attorney of a High Court may plead in any Court not a High Court.

XLVI. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

Commencement and extent of Act.

XLVII. This Act shall take effect in the territories under the Governments of the Lieutenant-Governor of Bengal and the North-Western Provinces, respectively, on the 1st day of January, 1866, and may be extended by order of any other local Government to the territories subject to such Government. Every such order shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

XLVIII. From the date on which this Act shall be extended by the local Government, under the provision contained in the last preceding Section, to the territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such territories, except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

FIRST SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp.

Pursuant to the "Pleaders', Mookhtars', and Revenue Agents' Act, 1865," I hereby certify that A. B., Pleader [*or* Mookhtar] whose place [*or* places] of business is [*or* are] at————hath this day delivered and left with me a declaration in writing signed by him, and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar], together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*] and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, *or* the Sudder Ameens' Courts, *or* the Moonsiffs' Courts, *as the case may be*] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this————day of————187 .

————, C. D.,
Registrar [*or as the case may be*] of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.

Stamp.

Pursuant to "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865," I hereby certify that A. B.————————of———————— ————————is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*,] and in any Office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this————day of————187 .

C. D.
Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

ACT No. XXI. OF 1865.

General.

1. The share of each son of an Intestate Parsee to be double the widow's, and the share of the widow double the share of each daughter
2. The share of a widower to be double that of each child.
3. The share of each son to be four times that of each daughter, if no widow be left.
4. Property to be equally divided among the children, if no widower be left.
5. Widow or widower and issue of the deceased child of an intestate Parsee to take the share of such child.
6. If there be a widow or widower but no lineal descendants, the father or mother, or both, to take a moiety and the widow or widower the other. If there be both father and mother, the former's share to be double that of the latter. Intestate's paternal relatives in the order of the first Schedule, to take the moiety of the father and mother if they be dead, but each male to take double the share of each female in the same degree. If no paternal relatives, widow or widower to take the whole.
7. Next-of-kin, in the order of the second Schedule, to succeed to the whole property if there be no lineal descendants nor a widow or widower, but each male to take double the share of each female in the same degree.
8. Part III., Part IV., except Section 25, Part V., and Section 43 of the Indian Succession Act, 1865 not to apply to Parsees.

An Act to define and amend the law relating to Intestate Succession among the Parsees.

Preamble.

Whereas it is expedient to define and amend the law relating to Intestate Succession among the Parsees; It is enacted as follows:

Division of property among widow and children of Intestate.

I. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division among widower and children of Intestate.

II. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division among the children of male Intestate who leaves no widow.

III. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division among the children of female Intestate who leaves no widower.

IV. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.

V. If any child of a Parsee Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

Division when the Intestate leaves a widow or widower, but no lineal descendants.

VI. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next-of-kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division when the Intestate leaves neither widow nor widower nor lineal descendants.

VII. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next-of-kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next-of-kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

VIII. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees, that is to say, the whole of Part III., the whole of Part IV., excepting Section 25, the whole of Part V., and Section 43.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate

(2.) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great-grandfather and great-grandmother.

(5.) Great-grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the Intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

ACT No. XXII. OF 1865.

An Act to amend Act No. XVIII. of 1864 *(to provide for the appointment of a Municipal Committee for the City of Lucknow.)*

Preamble.

Whereas it is expedient to amend Act XVIII. of 1864 *(to provide for the appointment of a Municipal Committee for the City of Lucknow)*; It is enacted as follows:

Act XVIII of 1864, *Section* 21, *repealed.*

I. Section 21 of the said Act XVIII. of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Power to Governor-General in Council to extend Act XVIII. of 1864.

II. It shall be lawful for the Governor-General of India in Council, by Order published in the *Gazette of India*, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor-General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII. of 1864.

III. This Act shall be read with, and taken as part of, the said Act XVIII. of 1864.

ACT No. XXIII. OF 1865.

Punjab.

1. Interpretation.

2. Court constituted under this Act to be styled the Chief Court of the Punjab, and to consist of two or more Judges at least one of whom to be a Barrister of not less than five years' standing. Present Judicial Commissioner to be one of such Judges.

3. Judges to rank according to seniority of appointment.

4. Judges to hold Office at pleasure of the Governor-General in Council.

5. Every Judge to make a declaration of Office.

6. Judges to appoint a Registrar.

7. Also a Deputy Registrar and Clerks.

8. Such Officers (except the Registrar and Deputy, for whose removal the Lieutenant-Governor's sanction is necessary) may be dismissed by the Court.

9. Process of the Court to have a seal and to be signed by a Judge or the Registrar or his Deputy.

10. Except the Agent for the Secretary of State, Suitors, Advocates, Vakeels, and Attornies of a High Court or the Sudder Court of the North-Western Provinces, no person to plead unless licensed by the Court. Judges may make Rules for the qualification and admission of such persons.

11. Court may revoke license, and suspend any person from pleading.

12. Fees, other than those of an Advocate of a High Court, to be subject to the control of the Court. No fees to be recoverable except those allowed under Section 44.

13. Court to be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab; but not to have jurisdiction in land suits during the progress of a Revenue Settlement, if the Financial Commissioner be vested, under Act XIX. of 1865, with the power of a Court of final appeal in such cases.

14. Court may remove and try any original suit within the jurisdiction of any Subordinate Court.

15. Court may transfer any suit or appeal from one Subordinate Court, not being a Small Cause Court or a Cantonment Magistrate's Court, to any other such Court competent to try it.

16. Court may call for the record of any case decided in appeal by any Subordinate Court, or of any case decided by a Small Cause Court, if such Court appear to have exceeded its jurisdiction.

17. Special appeal to lie only to Chief Court.

18. Proceedings of the Court to be regulated by the Rules of Civil Procedure in force in the Punjab.

19. Rules of law or equity and good conscience observed by the local Courts, to be applied to all Civil cases in the Chief Court.

20. Chief Court to try European British subjects now committed to the High Court from the Punjab: Court to direct place of such trial.

21. A charge stating the offence for which any such person has been committed, to be delivered to the Registrar of the Chief Court.

22. Court may amend the charge, which shall be recorded: person charged entitled to have a copy of it gratis.

23. Person charged also entitled to have copies of the depositions on payment of a resonable sum.

24. Person to be tried upon charges so recorded.

25. Court may stay proceedings if charge appear clearly unsustainable. Such staying to have the effect of an acquittal if within 3 years no fresh charge be brought.

26. Court to hold its sittings ordinarily at the seat of Government, but may also sit at other convenient places.

27. Pending directions, European British subjects to be committed to the nearest Criminal Jail. If trial to be at usual place, person to be committed to the Jail of such place.

28. Court may order such persons, committed within certain districts or certain places, to be tried at the usual or any other place, and to be confined in a particular Jail.

29. Trials of such persons to be by jury.

30. Court of Session, at reqeuest of Chief Court, to summon jurors under the Code of Criminal Procedure, and, if necessary, any Military Officers within ten miles of its place of sitting.

31. Majority of Jurors to consist of Europeans or Americans if accused so desire.

32. Jury to consist of 12 and unanimity, or a majority of 9 with the concurrence of the Judge necessary for conviction.

33. Sentences of death do not require confirmation. Section 380 of the Code of Criminal Procedure not to apply.

34. Court may pass judgment and record sentence and finding in such form as it thinks proper. Provisions of Chapter 26 of the Code not to apply.

35. Judge may reserve for the decision of himself and another Judge any question of law or of the admissibility of evidence.

36. Save as aforesaid, provisions of the Code of Criminal Procedure to apply to trials and sentences before the Chief Court.

37. European British subject apprehended or delivered into custody within the Punjab, amenable for offence committed within Foreign territory.

38. Committing Magistrate to report such case to the Lieutenant-Governor, who may order the trial to be had before the Chief Court.

39. Lieutenant-Governor may order person to be delivered up for trial before any competent Court in such territory established by the Governor-General in Council.

40. Person charged to be committed to custody until receipt of the Lieutenant-Governor's orders, or to be bailed to appear when required.

41. Order of Lieutenant-Governor to be full authority.

42. No decree or sentence to be reversed or modified, except by order of at least two Judges of Chief Court.

43. Court may by Rule provide for the exercise of its original and appellate jurisdiction by one or more Judges.

44. Chief Court to superintend subordinate Courts, and make Rules of Practice for itself and such Courts, and for other purposes.

45. Court to have jurisdiction over pending proceedings of the Judicial Commissioner.

46. If only two Judges sit, and they differ in opinion—

(1.) Finding of lower Court to be upheld if the case be heard in appeal, and the difference be on a question of fact.

(2.) If difference be on a point of law or usage, the ruling of the lower Court to be also upheld, or the point may be referred for the decision of the High Court at Calcutta.

(3.) Judges to state the point of difference if it be a question of law or usage in an original case or in a case under the 35th Section.

(4.) The opinion of the Senior Judge to be the decision, if the difference be on a question of fact, in an original case.

47. Cases referred to be heard by not less than 3 Judges of the High Court, the opinion of the majority to be decisive.

48. Parties may appear and be heard. Costs on a reference to be costs in the suit.
49. Chief Court to keep register and accounts, and furnish copies of records, required by the Lieutenant-Governor.
50. Except as excepted, functions of Chief Court may be performed by a Judge thereof.
51. The Pleaders', Mookhtars', and Revenue Agents' Act, 1865, when extended to the Punjab, not to affect the provisions of Sections 10, 11 and 12 of this Act.
52. Act may be cited as "The Punjab Chief Court Act, 1865."
53. Act to commence from day fixed by the Governor-General in Council.

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Preamble.

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; It is enacted as follows:

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge." "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer respectively, include any person for the time being authorized to act as such Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number.

Words in the singular include the plural: words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons ap-

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before

pointed Judges of Chief Court.

the Lieutenant-Governor or such authority or person as he may commission to receive the same:—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under Section 45.

Appointment and removal of Ministerial Officers.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar, and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court. Processes to be sealed with Court Seal and signed by Judge or Registrar.

IX. The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees, and other process issuing out of the Court Judge be stamped with such Seal, and signed by a shall or the Registrar or Deputy Registrar of the Court.

Agent for Secretary of State, suitors, and Advocates, &c., of High Courts may and appear plead.

Licensing of Pleaders.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead, or act on his behalf; (2) any suitor appearing, pleading, or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel, or Attorney-at-Law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the pleader of any suitor in the Chief Court in any suis or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Rules regarding their qualifications and admission.

Power to suspend or revoke Pleaders' license.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any

person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Fees of Pleaders to be subject to control.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader, except such fees as shall be allowed under Section XLIV.

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provisions hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council: Provided that, when a Settlement of Land Revenue shall be in progress, and the local Government, under Act XIX. of 1865 *(to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies)* shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original civil jurisdiction.

XIV. The Chief Court may remove, and try and determine as a Court of original jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence, when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence, other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or an appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Regulation of proceedings in Civil suits.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party, shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XIX. In the exercise of its Civil jurisdiction, original as well as appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

Power to try European British subjects.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Charge to be delivered to Registrar with commitment of European British subject.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter, or add to the Charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter, or add to the same. The charge with such amendments, alterations, or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the

effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in Section 21 shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal Jail of, or nearest to, the place at which he is directed to be tried; and the Officer in charge of such Criminal Jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects, committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular Jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under Section 20 shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles

Military men not exempt.

of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding any thing contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subject.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilt. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIII. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person, convicted of an offence made punishable by death by the Indian Penal Code, has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before the Chief Court acting in the exercise of its original criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the

course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner, with a copy of his sentence and a warrant for the execution of the same, to the Magistrate or other Officer in charge of the Jail of the district or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to Jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries trials, sentences, and execution.

XXXVII. Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial, as hereinafter provided, on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

British subject to be amenable for offences committed in foreign territory.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Gonernor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieute-

Form of warrant of commitment and of bail-bond.

nant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule, or form, or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and after being so published shall be used and observed in the Chief Court; provided that such general rules, and forms, and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Provisions as to proceedings pending in Judicial Commissioner's Court.

XLV. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Procedure in case of difference of opinion between Judges when Court consists of only two.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

1st.—On appeal on a question of fact.

(*1st.*)—If the case be heard in appeal, and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

2nd.—On appeal on a question of law.

(*2nd.*)—If the difference of opinion shall be on a point of law, or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

3rd.—In exercise of original jurisdiction on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law, or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under Section 35.

4th.—In exercise of original jurisdiction on a question of fact.

(*4th.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

Hearing and decision of referred cases.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

XLVIII. The parties to such cases may appear, plead, and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion, under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under Section 46, shall be costs in the suit.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

XLIX. The Chief Court shall keep such registers, books, and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of, or extracts from, the records of the Court.

Chief Court's functions exerciseable by single Judge.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under Section 44.

Sections 10, 11, and 12 not to be affected on extension to Punjab of Act XX. of 1865.

LI. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section 47 of the Pleaders', Mookhtars', and Revenue Agents' Act, 1865, extend the provisions of the said Act to the territories under his Government, nothing in the said Act shall affect the provisions of Sections 10, 11, and 12 of this Act.

Short Title.

LII. This Act may be cited as "The Punjab Chief Court Act, 1865."

Commencement of Act.

LIII. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the *Gazette of India.*

Act No. XXIV. of 1865.

The whole of this Act has been repealed by the Repealing Act VIII., 1868, *except Section* 5.

Warrants and Cognovits executed and given after the passing of this Act to be void.

V. Every Warrant of Attorney and Cognovit executed or given after the passing of this Act, in or relating to proceedings in the said High Court, or in any other High Court of Judicature in British India, and every judgment signed thereon, and all executions issued upon such judgments, shall be deemed null and void.

Act No. XXIX. of 1865.

An Act to amend the Pleaders', Mookhtars', and Revenue Agents' Act, 1865.

Preamble.

Whereas it is expedient to amend the Pleaders', Mookhtars', and Revenue Agents' Act, 1865 (Act XX. of 1865); It is enacted as follows:

Persons qualified as Pleaders or Mookhtars when Act XX. of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

I. Notwithstanding anything contained in the Pleaders', Mookhtars', and Revenue Agents' Act, 1865, any person who at the time when such Act shall come into operation shall be duly qualified to practise as a Pleader or Mookhtar in any Court in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as a Pleader or Mookhtar, as the case may be, in such Court for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate, in pursuance of the said Act, in the same manner as if such Act had not been passed.

Fees now payable by any person in respect of his adversary's Pleader, to be payable during the six months, as if Act XX. of 1865 had not been passed.

II. All fees which are now by law payable upon proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable, and may be allowed during the said period of six calendar months, as if such Act had not been passed.

Persons practising as Revenue Agents when Act XX. of 1865 shall come into operation, may continue to practise for six months, as if that Act had not been passed.

III. Notwithstanding anything contained in the said Act, any person who at the time when such Act shall come into operation shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as an Agent before such Board or in such Office, as the case may be, for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate, in pursuance of the said Act, in the same manner as if such Act had not been passed.

High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act XX. of 1865, Section 10, Clause (c), to practise in Small Cause Courts.

IV. Whenever the High Court shall cause a certificate, whether original or renewed, authorizing the holder to practise as a pleader in the Courts mentioned in Clause (*c*) of Section 10 of the said Act, to be issued to a person entitled, under the proviso in Section 5 of the same Act, to be admitted and enrolled as a Pleader in the High Court without passing any examination, the Court may in such certificate authorize the holder to practise as a Pleader in Small Cause Courts in addition to the Courts mentioned in the said Clause (*c*), and he shall thereupon be entitled to practise as last aforesaid, subject to the conditions contained in the said Act as to the duration of and stamp on a certificate authorizing the holder to practise as a Pleader in the Courts mentioned in the said Clause (*c*.)

Interpretation Clause.

V. In the construction of this Act and of the said Act XX. of 1865, the expression "Office subordinate to such Board" and, in the construction of the latter Act, the expression "Revenue Office" shall be taken to apply to Collectors and Deputy Collectors trying suits under Act X. of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.)*

This Act to be taken as part of Act XX. of 1865.

VI. This Act shall, be read with, and taken as part of, "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865."

ACT No. XXX. OF 1865.

An Act to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of Irrigation.

Preamble.

Whereas, by an Indenture made on the 3rd day of June, one thousand eight hundred and sixty-three, between the Secretary of State in Council of the one part, and the Madras Irrigation and Canal Company of the other part, it was amongst other things provided that the Company should be authorized and empowered to charge such rates for the supply of water generally, except the supply for the purposes of Irrigation, as should not exceed the rates which should "be defined by an Act of Parliament of the Indian Legislature," and should not in any case charge any higher rates

whatsoever. And whereas it is expedient to fix the rates which the said Company may charge for the said purpose; It is enacted as follows:

Rate which Company may charge for water supplied for purposes other than Irrigation.

I. The Madras Irrigation and Canal Company may charge for the supply of water generally, except the supply for the purposes of Irrigation, a rate not exceeding the sum of one Rupee for four hundred cubic yards of water.

Commencement of Act.

II. This Act shall come into force on the 1st day of January, 1866.

Act No. I. of 1866.

An Act to amend Act XIX. of 1861 *(to provide for a Government Paper Currency.)*

Preamble.

Whereas it is expedient to amend Act XIX. of 1861 *(to provide for a Government Paper Currency)*; It is enacted as follows:

Addition to Section 9 of Act XIX. of 1861.

I. The ninth Section of the said Act shall be read as if after the words "Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same," the following words were inserted, (that is to say):—

"Every person so tendering bullion or foreign coin and depositing the same in any such Office or Agency, shall be entitled to receive therefor a certificate signed by the person or persons authorized to issue the Notes aforesaid, which certificate shall acknowledge the receipt of such bullion or foreign coin, and shall state the value thereof after deducting the expense of melting and assaying the same, and shall also state the interval (which the Governor-General in Council shall from time to time fix by notification in the *Gazette of India*) on the expiration of which, if such certificate be presented to such Office or Agency, the holder shall be entitled to receive Promissory Notes in exchange for the said bullion or foreign coin at the rate and subject to the deduction aforesaid: and no person so tendering as aforesaid and receiving such certificate shall be entitled to receive such Notes previous to the expiration of the interval so stated in the said certificate. But nothing herein contained shall preclude the person or persons so authorized from issuing, if he or they shall think fit, Notes in exchange for bullion or foreign coin at the rate and subject as aforesaid."

Short Title.

II. This Act shall be called "The Currency Act Amendment Act, 1866."

ACT No. III. OF 1866.

1. Power to Registrars appointed under Act XXI. of 1863 to make certain orders interlocutory.
2. Such orders may be altered or reversed on application.
3. Application may be made to and disposed of by Registrar.
4. Registrar to taken down evidence.
5. Appeal against orders made by Registrar.
6. Power to appeal to Recoder in his absence.
7. Power to Recorder to alter or reverse the order appealed against.
8. Time within which appeals to be brought.
9. Registrar to receive affidavits and administer oaths.
10. Trial of case in which Recorder is a party or witness.
11. Provision for vacancy of the office of Recorder.
12. Registrar's powers as a Small Cause Court Judge exercisable by Recorder.
13. Power to appoint an officiating Registrar.
14. Power to make rules of practice.
15. This Act to be read with Act XXI. of 1863.

An Act to confer certain increased powers on the Registrars of the, Recorders' Courts in British Burmah, and for other purposes.

Preamble.

Whereas it is expedient to confer upon the several Registrars of the Recorders' Courts in British Burmah certain increased powers; It is enacted as follows:

Power to Registrars appointed under Act XXI. of 1863 to make certain orders interlocutory.

I. Every Registrar appointed under Act XXI. of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns*) may, in the absence of the Recorder of the Court to which such Registrar is appointed, make all such orders for arrest before judgment, for attachment of property before judgment, for the protection, management and custody of property in dispute in any suit, for injunctions restraining breaches of contract or wrongful acts, as such Recorder if present might make.

Such orders may be altered or reversed on application.

II. Every order made by any Registrar in the exercise of the powers conferred upon him by this Act may be altered or reversed upon the application of any person, whether a party to the suit or not, who may deem himself to be aggrieved by such order.

Application may be made to and disposed of by Registrar.

III. Every such application may be made to and disposed of by the Registrar of the Court in which such order shall have been made in the absence of the Recorder of such Court.

Registrar to take down evidence.

IV. The Registrar to whom any such application shall be made, shall take down the evidence given upon the hearing of such application.

Appeal against orders made by Registrar.

V. Every order made by a Registrar in pursuance of this Act shall be subject to an appeal, under the general rules applicable to appeals from orders, to the Recorder of the Court by the Registrar of which such order shall have been made.

Power to appeal to Recorder in his absence.

VI. In case of the absence of the Recorder before whom the appeal is brought, the person appealing may make such application by way of petition, and may require the Registrar from whose order such appeal shall be brought, to transmit to such Recorder copies of such petition and of all the evidence received by the Registrar upon the hearing of the application from the order upon which such appeal shall have been brought.

Power to Recorder to alter or reverse the order appealed against.

VII. Such Recorder may affirm, alter, or reverse the order from which such appeal shall be brought, or postpone the further consideration of such appeal until the next sittings of the Court in which such order shall have been made.

Time within which appeals to be brought.

VIII. No appeal from any order made by any Registrar under the powers conferred by this Act, nor any application to alter or reverse such order, shall be brought after the conclusion of the sittings of the Court in which such orders shall have been made, which shall commence next after the making of such order.

Registrar to receive affidavits and administer oaths.

IX. Every Registrar appointed under the said Act shall have power to receive affidavits and to administer oaths and affirmations in all suits which may or shall be depending in any Court established under the said Act.

Trial of case in which Recorder is a party or witness.

X. In case the Recorder of any Court established under the said Act shall be a party, or a necessary witness to or in any suit or proceeding instituted in such Court, such suit or proceeding and all applications therein shall be heard and determined by the Commissioner of the Division in which such Court shall be situated, and such Commissioner shall in every such suit or proceeding have and exercise all the powers by the said Act or by this Act vested in such Recorder.

Provision for vacancy of the Office of Recorder.

XI. Upon the happening of a vacancy in the Office of Recorder, and during any absence of a Recorder from British Burmah, the Governor-General of India in Council shall appoint any person with such qualifications as are required by the said Act in persons to be appointed Recorders, to perform the duties of Recorder. The person so appointed shall be authorized to sit and perform the duties of Recorder until some person shall have been appointed by the Governor-General in Council to the Office of Recorder and shall have entered on the discharge of the duties of such Office, or until the Recorder shall have returned from such absence.

Registrar's powers as a Small Cause Court Judge exerciseable by Recorder.

XII So far as regards Small Causes, all or any of the powers and duties conferred and imposed on any Registrar by this Act or under or by virtue of Sections 35 and 36 of Act XXI. of 1863, may be exercised and performed by the Recorder of the Court to which such Registrar is attached.

Power to appoint an Officiating Registrar.

XIII. Whenever any person holding the Office of Registrar under Act XXI. of 1863, shall obtain leave of absence or be disabled through illness from performing his duties, it shall be lawful for the Recorder of the Court to which such Registrar is attached, or, in his absence, for the Commissioner of the Division in which such Court is situate, to appoint some person to officiate as Registrar; and such person while so officiating shall have the same powers and perform the same duties as the Registrar of such Court under this Act and any other law for the time being in force. Any person appointed under this Section may hold at the same time any other Office under Government.

Power to make rules of practice.

XIV. The Recorder of any Court established under the said Act shall have power to make and issue general rules for regulating the practice and procedure of his Court, and to prescribe forms for every proceeding therein for which he shall think that a form should be provided, and from time to time to alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the Official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Code of Civil Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner of British Burmah.

This Act to be read with Act XXI. of 1863.

XV. This Act shall be read with, and taken as part of, the said Act XXI. of 1863.

ACT No. IV. OF 1866.*

1. Interpretation of terms. "Punjab" "Lieutenant Governor" "Chief Court." "Judge." "Registrar." "Magistrate" "Barrister." "Section." Number. Gender.
2. Constitution of Chief Court.
3. Precedence of Judges of Chief Court.
4. Tenure of Office of Judges of Chief Court.
5. Declaration to be made by persons appointed Judges of Chief Court.
6. Appointment of Registrar.
7. Appointment and removal of Ministerial Officers.
8. Dismissal of Officers of Court
9. Seal of Chief Court. Processes to be sealed with Court Seal, and signed by Judge of Registrar
10. Agent for Secretary of State, suitors and Advocates, &c, of High Courts may appear and plead. Licensing of Pleaders Rules regarding their qualifications and admission
11. Power to suspend or revoke Pleader's license.
12. Fees of Pleaders to be subject to control
13. The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.
14. Extraordinary original civil jurisdiction.
15. Power to transfer suits and appeals from one subordinate Court to another.
16. Power to call for record of cases decided by subordinate Courts
17. Special appeal from Courts in Punjab to lie only to Chief Court.
18. Regulation of Proceedings in civil suits.
19. In exercise of its civil jurisdiction, law of the local courts to apply.
20. Power to try European British subject
21. Charge to be delivered to Registrar with commitment of European British subjects.
22. Chief Court to consider, and, if it will, to amend, alter, or add to the charge. Charge with amendments, alterations, or additions (if any) to be recorded.
23. Accused to have copies of examinations.
24. Effect of charge.
25. Chief Court may order an unsustainable charge not to be proceeded with.
26. Places of holding sittings.
27. Procedure pending directions of Chief Court as to place of trial of European British subject.
28. Chief Court may order European British subjects committed in certain districts in certain seasons of the year to be tried at a particular place and confined in a particular Jail.
29. Trials under Sections 20 to be by Jury.
30. Summoning of Jurors to serve on trials. Military men not exempt.
31. Jury for trial of European British subject
32. Number of Jury requisite to verdict of guilty.
33. Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.
34. Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.
35. Power to single Judge to reserve for Chief Court any question of law or evidence. Procedure where no such question reserved.
36. Save as aforesaid, Criminal Procedure Code to apply to juries, trials, sentences and executions.
37. European British subjects to be amenable for offences committed in foreign territory.
38. Committing Magistrate to report to the Lieutenant-Governor.
39. If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.
40. Form of warrant of commitment and of bail-bond.
41. Order of Lieutenant-Governor to be full authority
42. Two Judges at least necessary ot reverse or modify sentences or decrees of Sessions or Civil Judges.
43. Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.
44. Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts
45. Repealed.
46. Procedure in case of difference of opinion between Judges when Courts consists of only two
(1) On appeal on a question of fact.
(2) On appeal on a question of law
(3) In exercise of original jurisdiction on a question of law.
(4) In exercise of original jurisdiction on a question of fact.
47. Hearing and decision of referred cases.

* As to appeals to the Courts established under this Act, see Act VII., 1868, Section 3.

49. Parties may appear in person, or by Advocate or Vakeel. Transmission of judgment of High Court and proceeding thereupon. Costs of reference to High Court.
49. Registers, books, accounts, and statements to be kept and furnished by Chief Court. Copies of records to be furnished.
50. Chief Court's functions exerciseable by single Judge.
51. Sections 10, 11, and 12 not to be affected on extension to Punjab of Act XX. of 1865.
52. Repealed.
53. Short Title.
54. Repealed.

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Preamble.

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; And whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is enacted as follows:

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge." "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer, respectively, include any person for the time being authorized to act as such Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number.

Words in the singular include the plural: words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court.

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same:—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

VI. The Judges of the Chief Court, with the sanction of the Lieutenant-Governor, may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

Appointment and removal of Ministerial Officers.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

IX. The Chief Court shall have, and use as occasion may require, a Seal with this inscription, "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Agent for Secretary of State, suitors and Advocates, &c., of High Court may appear and plead.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead, or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion.

Licensing of pleaders.

Rules regarding their qualifications and admission.

It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Power to suspend or revoke Pleader's license.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Fees of Pleaders to be subject to control.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provisions hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Courts in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of Land Revenue shall be in progress, and the local Government, under Act XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

XIV. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Regulation of proceedings in Civil suits.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XIX. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

Power to try European British subjects.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Charge to be delivered to Registrar with commitment of European British subject.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Effect of such order.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal Jail of, or nearest to, the place at which he is directed to be tried; and the Officer in charge of such Criminal Jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular Jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original criminal jurisdiction, the Court of Session at such place shall take, and cause to be taken, the measures prescribed by

Sections three hundred and thirty-six to three hundred and forty,* both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Jury for trial of European British subject.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of Jury requisite to verdict of guilty.

XXXIII. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original criminal jurisdiction.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before the Chief Court acting in the exercise of its original criminal jurisdiction; but the Chief Court shall pass judgment and shall record, or cause to be recorded, the sentence and finding in such form as it shall think proper.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXV. When any person has been convicted of an offence before

Power to single Judge to reserve for Chief Court any question of law or evidence.

a Judge of the Chief Court acting in the exercise of its original criminal jurisdiction, the Judge, if he thinks proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to Jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences, and execution.

XXXVII. Every European British subject apprehended within the Punjab, or delivered into the custody, of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

European British subjects to be amenable for offences committed in foreign territory.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form

Form of warrant of commitment and of bail-bond.

of the bail-bond shall be in the first instance to appear befor- the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts and to frame rules of practice for itself and such Courts.

XIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

XLV. *Repealed by the Repealing Act XIV.*, 1870.

Procedure in case of difference of opinion between Judges when Court consists of only two.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say :—

1st.—On appeal on a question of fact.

(*1st.*)—If the case be heard in appeal, and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

2nd.—On appeal on a question of law.

(*2nd.*)—If the difference of opinion shall be on a point of law, or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld unless one of the Judges shall be of opinion that the point is one which ought

to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

3rd.—In exercise of original jurisdiction on a question of law.

(*3rd*).—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law, or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

4th.—In exercise of original jurisdiction on a question of fact.

(*4th*).—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

Hearing and decision of referred cases.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

XLVIII. The parties to such case may appear, plead and Act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion, under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court under the forty-sixth Section, shall be costs in the suit.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

XLIX. The Chief Court shall keep such registers, books, and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of, or extracts from, the records of the Court.

Chief Court's functions exerciseable by single Judge.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Sections 10, 11, and 12 not to be affected

LI. Whenever the Lieutenant-Governor of the Punjab shall under the authority vested in him by Section 47 of the Pleaders', Mookhtars', and Revenue

on extension to Punjab of Act XX. of 1865.

Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections 10, 11, and 12 of this Act.

LII. *Repealed by the Repealing Act XIV.*, 1870.

Short Title.

LIII. This Act may be cited as "The Punjab Chief Court Act, 1866."

LIV. *Repealed by the Repealing Act XIV.*, 1870.

ACT No. V. OF 1866.*

1. Interpretation Clause. "British India." "High Court." "Local Government."
2. From and after 1st May, 1866, in all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this Act, the summons shall be in the form given in the Schedule.
3. Defendant showing a defence upon the merits to have leave to appear.
4. Court may, under special circumstances, set aside decree.
5. Court may order Bill to be deposited with Officer of Court in certain cases.
6. Remedy for recovery of cost of noting non-acceptance of dishonoured Bill.
7. Civil Procedure Code and rules made there under to apply to proceedings under this act.
8. Local Government may extend Act.
9. Consideration for guarantee need not appear by writing.
10. Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.
11. Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.
12. What are to be deemed "Inland Bills."
13. Protest by Notary Public to be *primâ facie* evidence of dishonour.
14. Suits on lost negotiable instruments.
15. Rights under marine and fire policies to vest in assignees.

An Act to provide a summary procedure on Bills of Exchange, and to amend in certain respects the Commercial Law of British India.

Preamble.

Whereas it is expedient to provide a summary procedure for the recovery of money due on dishonoured Bills of Exchange, Hoondies, and Promissory Notes; and whereas inconvenience is felt by persons engaged in trade by reason of the laws of British India being in some particulars different from those of England in matters of common occurrence in the course of such trade; and whereas, with a view to remedy such inconvenience, it is expedient to amend the laws of British India as hereinafter is mentioned; It is enacted as follows:

Intrepretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" shall mean the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 and 22 Vict., chap. 106 (*An Act for the better Government of India*):

"High Court."

"High Court" shall mean the High Court of Judicature at Calcutta, Madras, or Bombay, as the case may be:

"Local Government."

And in every part of British India in which this Act shall operate, "Local Government" shall mean the person authorized by law to administer Executive Government in such part.

From and after 1st May, 1866, in all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this

II. All suits upon Bills of Exchange, Hoondies, or Promissory Notes commenced in any High Court within six calendar months after the same shall have become due and payable, may, in case the plaintiff shall desire to proceed under this Act, be commenced as herein-

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* Declared applicable to the Mysore Territory. See. G. O. No. 106, in *Gazette of India*, 18th April, 1868, p. 683.

Act, the summons shall be in the form given in the Schedule.

after is mentioned, (that is to say) the plaint shall be in the form prescribed by the Code of Civil Procedure; but the summons shall be in the form contained in the Schedule to this Act; and in any case in which the plaint and summons shall be in such forms respectively, it shall not be lawful for the defendant to appear to or defend the suit unless he shall obtain leave from a Judge as hereinafter mentioned so to appear and defend; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

Defendant showing a defence upon the merits to have leave to appear.

III. The High Court shall, upon application within the period of seven days from the service of such summons, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as to the Court may seem fit.

Court may, under special circumstances, set aside decree.

IV. After decree, the High Court may under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it shall seem reasonable to the Court so to do and on such terms as to the Court may seem just.

Court may order Bill to be deposited with Officer of Court in certain cases.

V. In any proceedings under this Act, it shall be competent to the High Court to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Remedy for recovery of cost of noting non-acceptance of dishonoured Bill.

VI. The holder of every dishonoured Bill of Exchange or Promissory Note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise by reason of such dishonour, as he has under this Act for the recovery of the amount of such Bill or Note.

Civil Procedure Code and rules made thereunder to apply to proceedings under this Act.

VII. The provisions of the Code of Civil Procedure, and all rules made under or by virtue of the said Code, shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under this Act.

* VIII. It shall be lawful for the local Government to direct

* The Recorders in British Burmah have under this Section been invested with the powers vested by this Act in High Courts—see. G. O. No. 589, in *Gazette of India*, 4th April, 1868, p. 492; and the provisions of Sections 2 to 7 are declared applicable to the Court of the Deputy Superintendent of the Bangalore District—see. G. O. No. 106, in *Gazette of India*, 18th April, 1868, p. 683.

Local Government may extend Act.

that all or any part of the provisions in Sections 2 to 7, both inclusive, of this Act, shall, *mutatis mutandis*, apply to all or any Courts or Court in the territories under such Government, other than a High Court, and within one month after such order shall have been made and published in the Official Gazette, such provisions shall extend and apply in manner directed by such order, and any such order may be in like manner from time to time altered and annulled. In and by any such order the local Government may direct by whom any powers or duties incident to the provisions applied under this Act, shall and may be exercised with respect to matters in such other Courts or Court, and may make any orders or regulations which may be deemed requisite for carrying into operation in such Courts or Court the provisions so applied.

Consideration for guarantee need not appear by writing.

IX. No special promise to be made by any person after the passing of this Act to answer for the debt, default, or miscarriage of another person, being in writing, and signed by the party to be charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support a suit to charge the person by whom such promise shall have been made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.

X. No promise to answer for the debt, default, or miscarriage of another made to a Firm consisting of two or more persons, or to a single person trading under the name of a Firm, and no promise to answer for the debt, default, or miscarriage of a Firm, consisting of two or more persons, or of a single person trading under the name of a Firm, shall be binding on the person making such promise in respect of any thing done, or omitted to be done, after a change shall have taken place in any one or more of the persons constituting the Firm, or in the person trading under the name of a Firm, unless the intention of the parties, that such promise shall continue to be binding notwithstanding such charge, shall appear either by express stipulation or by necessary implication from the nature of the Firm or otherwise.

Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.

XI. No acceptance of any Bill of Exchange, whether Inland or Foreign, made after the 1st day of May, 1866, shall be sufficient to bind or charge any person, unless the same be in writing on such Bill, or, if there be more than one part of such Bill, on one of the said parts, and signed by the acceptor or some person duly authorized by him.

What are to be deemed "Inland Bills."

XII. Every Bill of Exchange or Promissory Note drawn or made in any part of British India, and made payable in or drawn upon any person resident in any part of British India, shall be deemed to be an Inland Bill; but nothing herein contained shall alter or affect the stamp duty, if any, which, but for this enactment, would be payable in respect of any such Bill or Note.

Protest by Notary Public to be primâ facie evidence of dishonour.

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Suits on lost negotiable instruments.

XIV. In case of any suit founded upon a Bill of Exchange or other negotiable instrument, if it shall be proved to the satisfaction of the Court that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, it shall be lawful for the Court to make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Rights under marine and fire policies to vest in assignees.

XV. Every assignee, by endorsement or otherwise, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred to and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

SCHEDULE.

No. of Suit.

In the High Court of————————————at————————————
————————————Plaintiff.
————————————Defendant.

To [*here enter the defendant's name, description, and address*].

Whereas [*here enter the plaintiff's name, description, and address*] has instituted a suit in this Court against you under Act V. of 1866 *(to provide a summary procedure on Bill of Exchange, and to amend in certain respects the commercial Law of British India)* for Rs.————principal and interest [*or* Rs.————balance of principle and interest] due to him as the Payee [*or* Indorsee] of a Bill of Exchange [*or* Hoondi *or* Promissory Note] of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs.————[*here state the sum claimed*] and the sum of Rs.————for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the Bill of Exchange, Hoondi or Promissory Note, and all endorsements upon it.*]

* Act No. VI. of 1866.

1. Repeal of Act VI. of 1865, and of part of Section 55 of Act XXXI. of 1860. Rest of Act XXXI. of 1860 continued.
2. Licenses to bear arms may be granted on conditions.
3. Amendments of Section 27 of Act XXXI. of 1860.

An Act to continue Act XXXI. of 1860 *(relating to the manufacture, importation, and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases) and for other purposes.*

Preamble.

Whereas Act XXXI. of 1860 as continued by Act VI. of 1865 will expire on the 1st day of October, 1866;

* Exte[illegible] 104, in *Gazette of India*, 15th May, [illegible] 117, in *Gazette of India*, 25th April,

and whereas it is expedient to continue the said Act XXXI. of 1860 with such modifications as are hereinafter mentioned; and whereas it is desirable to render the license mentioned in the 26th and other Sections of the same Act grantable upon conditions, and to enable the local Governments to exempt classes of persons, districts and parts of Districts from the operation of Sections 25 and 26 of the same Act; It is enacted as follows:

Repeal of Act VI. of 1865 and of part of Section 55 of Act XXXI. of 1860.

Rest of Act XXXI. of 1860 continued.

I. Act VI. of 1865, and the second Clause of Section 55 of Act XXXI. of 1860 are hereby repealed; but the rest of the Act last hereinbefore mentioned shall, subject to the modifications hereinafter mentioned, continue in force from the passing of this Act until the Governor-General of India in Council shall, by an order published in the *Gazette of India*, declare otherwise.

Licenses to bear arms may be granted on conditions.

II. The license mentioned in Sections 26, 28, 29, and 30 of the said Act XXXI. of 1860 may be granted by the Magistrate or other person specially authorized to grant the same, subject to such condition or conditions, if any, as such Magistrate or other person shall think fit; and on breach of any such condition, or failure to comply therewith, such license shall thereupon be null and void.

Amendment of Section 27 of Act XXXI. of 1860.

III. For the last Clause of Section 27 of the same Act, the following words shall be substituted, (that is to say):—"Such other persons, classes of persons, districts or parts of Districts, as the local Government may by notification in the Official Gazette from time to time exempt from such provisions."

Short Title.

IV. This Act may be cited as "The Arms' Act Continuance Act, 1866."

ACT No. VII. OF 1866.

An Act to extend to the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, Act XXIII. of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil).

Preamble.

Whereas it is expedient to extend to the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, the provisions of Act XXIII. of 1840 *(for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil)*; It is enacted as follows:

Extension of Act.

I. The said Act XXIII. of 1840 shall be read as if the words "Supreme Courts of Calcutta, Madras, and Bombay," included the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca: Provided that no writ, warrant, or other process shall be endorsed under the said Act by such Court so as to compel the attendance beyond the limits of its jurisdiction of any person living within such limits, unless special grounds be pro[illegible] Judge of such Court to whom such endor[illegible] upport of the application, which grounds sl[illegible] nt of the writ, warrant, or other proce[illegible]

Proviso.

Service of process issued by one Court to commence a suit or action within the local jurisdiction of another Court.

II. Any summons or other process issued to commence a suit by any High Court, may be served within the local jurisdiction of the said Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, if endorsed for service by a Judge of such Court of Judicature as hereinafter provided and any summons or other process issued to commence a suit or action by the same Court of Judicature may be served within the local jurisdiction of any High Court, if endorsed for service by a Judge of such High Court as hereinafter provided. The summons or other process intended for service shall be accompanied by a certificate annexed thereto, signed by a Judge of the Court from which the same is issued, stating some special cause why such summons or other process should be served within the jurisdiction of the High Court or Court of Judicature, as the case may be, and application shall be made to a Judge of such Court, on production of such summons or other process, and of such certificate, prior to such service thereof. On such application being made, it shall be in the discretion of such Judge to require proof, by affidavit or otherwise, that it is proper to allow such service, and on hearing such proof such Judge shall either endorse the summons or other process for service, or shall endorse thereon the reason for not ordering the service thereof. If such summons or other process be not endorsed for service as aforesaid, it shall not be served under this Act. When endorsed for service it shall be served in the same manner as if it had originally issued out of the Court in which such endorsement is made.

Act No. IX. of 1866.

An Act to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865," *and of Act XXIX. of* 1865.

Preamble.

Whereas it is expedient to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders', Mookhtars,' and Revenue Agents' Act, 1865, and of Act XXIX. of 1865; It is enacted as follows:

Power to Sudder Court, N. W. P., to make rules as to Pleaders and Mookhtars of such Court.

I. Notwithstanding anything contained in "The Pleaders', Mookhtars,' and Revenue Agents' Act, 1865," the said Sudder Court shall have power to make rules for the qualification, admission and enrolment of proper persons to be Pleaders and Mookhtars of such Court, for the fees to be paid for the examination, admission and enrolment of such persons, and, subject to the provisions contained in the same Act, for the suspension and dismissal of the Pleaders so admitted and enrolled. The said Court may also from time to time vary and add to such rules.

Certain provisions contained in Act XX. of 1865 *and in Act XXIX. of* 1865 *to apply to Pleaders and Mookhtars in such Court.*

II. The provisions contained in Sections 5 to 12, both inclusive, 14, 15, 18, 37, 39, and 41 of "The Pleaders', Mookhtars', and Revenue Agents' Act, 1865," and in Sections 1 and 2 of Act XXIX. of 1865, shall, *mutatis mutandis*, apply to Pleaders and Mookhtars practising

This Act to [illegible] with Act XX.

III. [illegible] en as part of, "The [illegible] venue Agents' Act,

THE INDIAN COMPANIES' ACT, 1866.

ARRANGEMENT OF SECTIONS.

Preliminary.

	Section.
Short Title	1
Commencement of Act	2
Interpretation Clause	3
Prohibition of partnerships exceeding certain number ...	4
Division of Act	5

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

Mode of forming Company	6
Mode of limiting liability of members.	7
Memorandum of association of a Company limited by shares ...	8
Memorandum of association of a Company limited by guarantee...	9
Memorandum of association of an Unlimited Company ...	10
Stamp, signature, and effect of memorandum of association ...	11
Power of certain Companies to alter memorandum of association	12
Power of Companies to change name	13

Articles of Association.

Regulations to be prescribed by Articles of Association ...	14
Application of Table A	15
Stamp, signature, and effect of Articles of Association ...	16

General Provisions.

Registration of memorandun of association and Articles of Association with fees as in Table B	17
Effect of registration	18
Copies of memorandum and Articles to be given to members ...	19
Prohibition against identity of names in Companies ...	20

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

Nature of interest in Company	21
Definition of "Member"	22
Transfer by personal representative	23
Register of Members	24
Annual list of Members	25
Penalty on Company, &c., not keeping a proper Register ...	26
Company to give notice of consolidation or of conversion of capital into stock	27
Effect of conversion of shares into stock	28
Entry of trusts on Registe	9
Certificate of shares or s	0
Inspection of Register	1
Power to close Register	2

Distribution of Capital.—(Continued.) *Section.*

Notice of increase of capital and of members to be given to Registrar 33
Remedy for improper entry or omission of entry in Register ... 34
Notice to Registrar of rectification of Register 35
Register to be evidence 36

Liability of Members.

Liability of present and past members of Company ... 37

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

Registered Office of Company 38
Notice of situation of registered Office 39
Publication of name by a Limited Company 40
Penalties of non-publication of name 41
Contracts how made 42
Register of Mortgages 43
Certain Companies to publish statement entered in Schedule ... 44
List of Directors to be sent to Registrar 45
Penalty on Company not keeping Register of Directors ... 46
Promissory Notes, Bills of Exchange, and Hoondies ... 47
Prohibition against carrying on business with less than seven members 48

Provisions for Protection of Members.

General Meeting of Company. Balance-sheet. Audit ... 49
Power to alter regulations by Special Resolution 50
Definition of "Special Resolution" 51
Provision where no regulations as to meetings 52
Registry of Special Resolutions 53
Copies of Special Resolutions 54
Execution of deeds abroad 55
Examination of affairs of Company by Inspectors... ... 56
Application for inspection to be supported by evidence ... 57
Inspection of books 58
Result of examination how dealt with... 59
Power of Company to appoint Inspectors 60
Report of Inspectors to be evidence 61

Notices.

Service of notices on Company 62
Rules as to notices by letter 63
Authentication of notices by Company 64

Legal Proceedings.

Evidence of proceedings at meetings 65
Provision as to costs in suits brought by certain Limited Companies 66
Plai[illegible] 67

Gov[illegible] Schedule ... 68

Arbitrations. *Section.*

Power for Companies to refer matters to arbitration ... 69
Power to alter or revoke agreements for reference... ... 70
Agreements to be carried into effect 71
Reference to Arbitrator 72
Reference to two or more Arbitrators... 73
Appointment of Arbitrators by Companies 74
Appointment of Arbitrators by local Government 75
Appointment of Arbitrators by Companies to supply vacancies... 76
Appointment of Arbitrators by local Government to supply vacancies 77
Appointment of Arbitrator not revocable 78
Appointment of Umpire by Arbitrators 79
Appointment of Umpire by local Government 80
Appointment of Umpire by Arbitrators to supply vacancy ... 81
Appointment of Umpire by local Government to supply vacancy 82
Succeeding Arbitrators and Umpires to have powers of predecessors 83
Reference to Umpire 84
Power for Arbitrators, &c., to call for books, &c., and administer oath 85
Procedure in the arbitration 86
Arbitration may proceed in absence of Companies... ... 87
Several awards may be made 88
Awards made in due time to bind all parties 89
Power for Umpire to extend period for making his award ... 90
Awards not to be set aside for informality 91
Awards to be obeyed 92
Agreements, arbitrations, and awards to have effect ... 93
Costs of arbitration and award 94
Payment of costs 95
Submission to arbitration to be filed in Court 96

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

Meaning of contributory 97
Nature of liability of contributory 98
Contributories in case of death 99
Contributories in case of insolvency 100

Winding-up by Court.

Circumstances under which Company may be wound up by Court 101
Company when deemed unable to pay its debts 102
Definition of "the Court" 103
Application for winding-up to be made by petition ... 104
Commencement of winding-up by Court 105
Court may grant injunction 106
Course to be pursued by Court on hearing application ... 107
Suits to be stayed after order for winding-up 108
Copy of order to be forwarded to Registrar ... 109
Power of Court to stay [illegible] 110
Effect of order on sh[illegible] rantee... ... [illegible] 11
Court may have regard [illegible] 12

Official Liquidators. *Section.*

Appointment of Official Liquidator 113
Resignations, removals, filling up vacancies, and compensation .. 114
Style and duties of Official Liquidator 115
Powers of Official Liquidator 116
Discretion of Official Liquidator 117
Appointment of Attorney or Vakeel to Official Liquidator ... 118

Ordinary Powers of Court.

Collection and application of assets 119
Provision as to representative contributories 120
Power of Court to require delivery of property 121
Power of Court to order payment of debts by contributory ... 122
Power of Court to make calls 123
Power of Court to order payment into Bank 124
Regulation of account with Court 125
Provision in case of representative contributory not paying monies ordered 126
Order conclusive evidence... 127
Court may exclude creditors not proving within certain time ... 128
Court to adjust rights of contributories 129
Court to order costs 130
Dissolution of Company 131
Registrar to make Minute of dissolution of Company ... 132
Penalty on not reporting dissolution of Company 133

Extraordinary Powers of Court.

Power of Court to summon persons before it suspected of having property of Company 134
Examination of parties by Court 135
Power to arrest contributory about to abscond or to remove or conceal any of his property 136
Powers of Court cumulative 137

Enforcement of, and Appeal from, Orders.

Power to enforce orders 138
Order made in any Court to be enforced by other Courts ... 139
Mode of dealing with orders to be enforced by other Courts ... 140
Appeals from orders 141
Judicial notice to be taken of signature of Officers ... 142
Special Commissioners for receiving evidence 143
Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person... 144

Voluntary winding-up of Company.

Circumstances under which Company may be wound up voluntarily 145
Commencement of voluntary winding-up 146
Effect of voluntary winding-up on status of Company ... 147
Notice of resolution to wind up voluntarily 148
Consequences of voluntary winding-up 149
Effect of winding-up on share capital of Company limited by [illegible] 150
[illegible] ... [illegible] ... [illegible] ... [

Voluntary winding-up Company.—(Continued.) *Section.*

Power for Liquidators or contributories in voluntary winding-up to apply to Court 154
Power of Liquidators to call General Meeting 155
Power to fill up vacancy in Office of Liquidators 156
Power of Court to appoint Liquidators 157
Liquidators on conclusion of winding-up to make up an account 158
Liquidators to report meeting to Registrar 159
Costs of voluntary liquidation 160
Saving of rights of creditors 161
Power of Court to adopt proceedings of voluntary winding-up 162

Winding-up subject to the supervision of the Court.

Power of Court, on application, to direct winding-up subject to supervision 163
Petition for winding-up subject to supervision 164
Court may have regard to wishes of creditors 165
Power to Court to appoint additional Liquidators in winding-up subject to supervision 166
Effect of order of Court for winding-up subject to supervision ... 167
Appointment in certain cases of voluntary Liquidators to Office of Official Liquidators 168

Supplemental Provisions.

Dispositions after the commencement of the winding-up avoided 169
The books of the Company to be evidence 170
As to disposal of books, accounts, and documents of the Company 171
Inspection of books 172
General scheme of liquidation may be sanctioned 173
Power to compromise 174
Power for Liquidators to accept shares, &c., as a consideration for sale of property of Company 175
Mode of determining price 176
Appointment of Arbitrator when questions are to be determined by arbitration 177
Vacancy of Arbitrator to be supplied 178
Appointment of Umpire 179
Power of Arbitrators to call for books, &c, ... 180
Costs to be in the discretion of the Arbitrators 181
Submission to arbitration may be filed in Court 182
Certain attachments, distresses, and executions to be void ... 183
Fraudulent preference 184
Power of Court to assess damages against delinquent Directors and Officers 185
Penalty on falsification of books 186
Prosecution of delinquent Directors in the case of winding-up by Court 187
Penalty of false evidence 188

Power of High Court to make Rules.

Power of High Court to make Rules 189

Constitution of Regist[illegible] 190

PART VI.

Application of Act to Companies Registered under the Joint Stock Companies' Acts.

Application of Act to Companies formed under Act XIX. of 1857 or VII. of 1860 191
Application of Act to Companies registered under Act XIX. of 1857 or VII. of 1860... 192
Mode of transferring shares 193

PART VII.

Companies authorized to Register under this Act.

Companies capable of being registered... 194
Regulations as to registration of existing Companies ... 195
Definition of "Joint Stock Company"... 196
Requisitions for registration by Companies 197
Requisitions for registration by existing Company not being a Joint Stock Company 198
Power for existing Company to register amount of stock instead of shares 199
Authentication of statements of existing Companies ... 200
Registrar may require evidence as to nature of Company ... 201
On registration of Banking Company with limited liability, notice to be given to customers 202
Exemption of certain Companies from payment of fees ... 203
Company to change name... 204
Certificate of registration of existing Companies 205
Certificate to be evidence of compliance with Act 206
Transfer of property to Company 207
Registration under this Act not to affect obligations incurred previously to registration 208
Continuation of existing suits 209
Effect of registration under Act 210
Power of Court to restrain further proceedings 211
Order for winding-up Company 212

PART VIII.

Application of Act to Unregistered Companies.

Winding-up of unregistered Companies 213
Who to be deemed a contributory in the event of Company being wound up 214
Power of Court to restrain further proceedings 215
Effect of order for winding-up Company 216
Provision in case of unregistered Company 217
Provisions in this part of Act cumulative 218

PART IX.

Repeal of Acts and Miscellaneous Provisions.

Repealed 219-222
Compulsory registration of certain Companies 223
Penalty on Company not registering 224
Cognizance of offences under this Act 225
Punishment of offences under this Act, committed within local limits of High Court 226
Levy of fines by distress 227
Pr[illegible] made to distress [illegible]nt... ... 228
In[illegible] 229
Co[illegible]panies" in Act [illegible] 230
Ac[illegible] Bombay ... 231

ACT No. X. OF 1866.*

1. Short title.
2. Commencement of Act.
3. Interpretation clause. "British India." "Year." "Month." "Insurance Company." "Court." "District Court." "Local Government." "High Court."
4. Prohibition of partnerships exceeding certain number.
5. Division of Act.
6. Mode of forming Company.
7. Mode of limiting liability of members.
8. Memorandum of Association of a Company limited by shares.
9. Memorandum of Association of a Company limited by guarantee.
10. Memorandum of Association of an unlimited Company.
11. Stamp, signature, and effect of memorandum of Association.
12. Power of certain Companies to alter memorandum of Association.
13. Power of Companies to change name.
14. Regulations to be prescribed by Articles of Association.
15. Application of Table A.
16. Stamp, signature, and effect of Articles of Association.
17. Registration of memorandum of Association and Articles of Association with fees as in Table B.
18. Effect of registration.
19. Copies of memorandum and Articles to be given to members.
20. Prohibition against identity of names in Companies.
21. Nature of interest in Company.
22. Definition of "Member."
23. Transfer by personal representative.
24. Register of members.
25. Annual list of members.
26. Penalty on Company, &c., not keeping a proper Register.
27. Company to give notice of consolidation or of conversion of capital into stock.
28. Effect of conversion of shares into stock.
29. Entry of trusts on Register.
30. Certificate of shares or stock.
31. Inspection of Register.
32. Power to close Register.
33. Notice of increase of capital and of members to be given to Registrar.
34. Remedy for improper entry or omission of entry in Register.
35. Notice to Registrar of rectification of Register.
36. Register to be evidence.
37. Liability of present and past members of Company.
38. Registered Office of Company.
39. Notice of situation of registered Office.
40. Publication of a name by a limited Company.
41. Penalties on non-publication of name.
42. Contracts how made.
43. Register of mortgages.
44. Certain Companies to publish statement entered in Schedule.
45. List of Directors to be sent to Registrar.
46. Penalty on Company not keeping Register of Directors.
47. Promissory Notes, Bills of Exchange and Hoondies.
48. Prohibition against carrying on business with less than seven members.
49. General meeting of Company, Balance-sheet. Audit.
50. Power to alter regulations by Special Resolution.
51. Definition of "Special Resolution."
52. Provision where no regulations as to meetings.
53. Registry of Special Resolutions.
54. Copies of Special Resolutions.
55. Execution of deeds abroad.
56. Examination of affairs of Company by Inspectors.
57. Application for inspection to be supported by evidence.
58. Inspection of books.
59. Result of examination how dealt with.
60. Power of Company to appoint Inspectors.
61. Report of Inspectors to be evidence.
62. Service of notices on Company.
63. Rules as to notices by letter.
64. Authentication of notices by Company.
65. Evidence of proceedings at meetings.
66. Provisions as to costs in suits brought by certain limited Companies.
67. Plaint in suits against members.
68. Governor-General in Council may alter forms in Schedule.
69. Power for Companies to refer matters to arbitration.
70. Power to alter or revoke agreements for reference.
71. Agreements to be carried into effect.
72. Reference to Arbitrator.
73. Reference to two or more Arbitrators.
74. Appointment of Arbitrators by Companies.
75. Appointment of Arbitrators by local Government.
76. Appointment of Arbitrators by Companies to supply vacancies.
77. Appointment of Arbitrators by local Government to supply vacancies.
78. Appointment of Arbitrators not revocable.
79. Appointment of Umpire by Arbitrators.
80. Appointment of Umpire by local Government.
81. Appointment of Umpire by Arbitrators to supply vacancy.
82. Appointment of Umpire
83. Succeeding Arbitrators
84. Reference to Umpire.

* Declared applicable
India, 5th September, 186

Gazette of

85. Power for Arbitrators, &c., to call for books, &c., and administer oath.
86. Procedure in the Arbitration.
87. Arbitration may proceed in absence of Companies.
88. Several awards may be made.
89. Awards made in due time to bind all parties.
90. Power for Umpire to extend period for making his award.
91. Awards not to be set aside for informality.
92. Awards to be obeyed.
93. Agreements, arbitrations and awards to have effect.
94. Costs of arbitration and award.
95. Payment of costs.
96. Submission to arbitration to be filed in Court.
97. Meaning of contributory.
98. Nature of liability of contributory.
99. Contributories in case of death.
100. Contributories in case of insolvency.
101. Circumstances under which Company may be wound up by Court.
102. Company when deemed unable to pay its debts.
103. Definition of "the Court."
104. Application for winding-up to be made by petition.
105. Commencement of winding-up by Court.
106. Court may grant injunction.
107. Course to be pursued by Court on hearing petition.
108. Suits to be stayed after order for winding-up.
109. Copy of order to be forwarded to Registrar.
110. Power of Court to stay proceedings.
111. Effect of order on share-capital of Company limited by guarantee.
112. Court may have regard to wishes of creditors or contributories.
113. Appointment of Official Liquidator.
114. Resignations, removals, filling up vacancies, and compensations.
115. Style and duties of Official Liquidator.
116. Powers of Official Liquidator.
117. Discretion of Official Liquidator.
118. Appointment of Attorney or Vakeel to Official Liquidator.
119. Collection and application of assets.
120. Provision as to representative contributories.
121. Power of Court to require delivery of property.
122. Power of Court to order payment of debts by contributory.
123. Power of Court to make calls.
124. Power of Court to order payment into Bank.
125. Regulation of accounts with Court.
126. Provision in case of representative contributory not paying monies ordered.
127. Order conclusive evidence.
128. Court may exclude creditors not proving within certain time.
129. Court to adjust rights of contributories.
130. Court to order cost.
131. Dissolution of Company.
132. Registrar to make Minute of dissolution of Company.
133. Penalty on not reporting dissolution of Company.
134. Power of Court to summon persons before it suspected of having property of Company.
135. Examination of parties by Court.
136. Power to arrest contributory about to abscond or to remove or conceal any of his property.
137. Powers of Court cumulative.
138. Power to enforce orders.
139. Order made in any Court to be enforced by other Courts.
140. Mode of dealing with orders to be enforced by other Courts.
141. Appeals from orders.
142. Judicial notice to be taken of signature of Officers.
143. Special Commissioners for receiving evidence.
144, Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.
145. Circumstances under which Company may be wound up voluntarily.
146. Commencement of voluntary winding-up.
147. Effect of voluntary winding-up on status of Company.
148. Notice of Resolution to wind-up voluntarily.
149. Consequence of voluntary winding-up.
150. Effect of winding-up on share-capital of Company limited by guarantee.
151. Power of Company to delegate authority to appoint Liquidators.
152. Arrangement when binding on creditors.
153. Power of creditor or contributory to appeal.
154. Power for Liquidators or contributories in voluntary winding-up to apply to Court.
155. Power of Liquidators to call General Meeting.
156. Power to fill up vacancy in office of Liquidators.
157. Power of Court to appoint Liquidators.
158. Liquidators on conclusion of winding-up to make up an account.
159. Liquidators to report meeting to Registrar.
160. Costs of voluntary liquidation.
161. Savings of rights of creditors.
162. Power of Court to adopt proceedings of voluntary winding-up.
163. Power of Court on application, to direct winding-up subject to supervision.
164. Petition for winding-up subject to supervision.
165. Court may have regard to wishes of creditors.
166. Power to Court to appoint additional Liquidators in winding-up subject to supervision.
167. Effect of order of Court for winding-up subject to supervision.
168. A[illegible]
169. D[illegible] ce of Official Liquidators.
170. T[illegible] led.
171. A[illegible]
172. I[illegible] ny.
173. G[illegible]
174. P[illegible]

175. Power for Liquidators to accept shares, &c., as a consideration for sale of property of Company.
176. Mode of determining price.
177. Appointment of Arbitrator when questions are to be determined by arbitration.
178. Vacancy of Arbitrator to be supplied.
179. Appointment of Umpire.
180. Power of Arbitrators to call for books, &c.
181. Costs to be in the discretion of the Arbitrators.
182. Submission to arbitration may be filed in Court.
183. Certain attachment, distresses, and executions to be void.
184. Fraudulent preference.
185. Power of Court to assess damages against delinquent Directors and Officers.
186. Penalty on falsification of books.
187. Prosecution of delinquent Directors in the case of winding-up by Court.
188. Penalty of false evidence.
189. Power of High Court to make rules.
190. Constitution of Registration Office.
191. Application of Act to Companies formed under Act XIX. of 1857, or VII. of 1860.
192. Application of Act to Companies registered under Act XIX. of 1857, or VII. of 1860.
193. Mode of transferring shares.
194. Companies capable of being registered.
195. Regulations as to registration of existing Companies.
196. Definition of "Joint Stock Company."
197. Requisitions for registration by Companies.
198. Requisitions for registration by existing Company not being a Joint Stock Company.
199. Power for existing Company to register amount of stock instead of shares.
200. Authentication of statements of existing Companies.
201. Registrar may require evidence as to nature of Company.
202. On registration of Banking Company with limited liability, notice to be given to customers.
203. Exemption of certain Companies from payment of fees.
204. Company to change name.
205. Certificate of registration of existing Companies.
206. Certificate to be evidence of compliance with Act.
207. Transfer of property to Company.
208. Registration under this Act not to affect obligations incurred previously to registration.
209. Continuation of existing suits.
210. Effect of registration under Act.
211. Powers of Court to restrain further proceedings.
212. Order for winding-up Company.
213. Winding-up of unregistered Companies.
214. Who to be deemed a contributory in the event of Company being wound up.
215. Power of Court to restrain further proceedings.
216. Effect of order for winding-up Company.
217. Provision in case of unregistered Company.
218. Provisions of this part of Act Cumulative.
219-222. Repealed.
223. Compulsory registration of certain Companies.
224. Penalty on Company not registering.
225. Cognizance of offences under this Act.
226. Punishment of offences under this Act committed within local limits of High Court.
227. Levy of penalties by distress.
228. Procedure until return is made to distress warrant.
229. Imprisonment if no sufficient distress.
230. Construction of "Registrar of Joint Stock Companies" in Act XXI. of 1860.
231. Act not to apply to Bank of Bengal, Madras, or Bombay.

An Act for the incorporation, regulation, and winding-up of Trading Companies and other Associations.

Preamble.

Whereas it is expedient that the laws relating to the incorporation, regulation, and winding-up of Trading Companies and other Associations should be consolidated and amended; It is enacted as follows:

PRELIMINARY.

Short Title.

I. This Act may be cited for all purposes as "The Indian Companies' Act, 1866."

Commencement of Act.

II. This Act shall come into operation on the 1st day of May, 1866, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

Interpretation Clause.

III. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" means the Territories which are or may become vested [illegible] Her Majesty [illegible] Her [illegible] by the Statu[illegible] [illegible] Act for the better Governme[illegible]

"Year." *"Month."*

"Year and "month" respectively denote a year and month reckoned according to the British calendar:

"Insurance Company."

An "Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses:

"Court."

"Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in the exercise of its ordinary original civil jurisdiction:

"District Court."

"District Court" means the principal Civil Court of original jurisdiction in a District, but does not include the High Court in the exercise of its ordinary original civil jurisdiction:

"Local Government." "High Court."

And in any part of British India in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such part, and includes a Chief Commissioner; and "High Court" denotes the highest Civil Court of appeal therein.

Prohibition of partnerships exceeding certain number.

IV. No Company, Association or Partnership consisting of more than ten persons shall be formed, after the commencement of this Act, for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General of India in Council, or by Royal Charter or Letters Patent; and no Company, Association, or Partnership consisting of more than twenty persons shall be formed, after the commencement of this Act, for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association, or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Division of Act.

V. This Act is divided into nine Parts relating to the following subject-matters:—

The first Part—to the constitution and incorporation of Companies and Associations under this Act:

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act:

The third Part—to the management and administration of Companies and Associations under this Act:

The fourth Part—to the winding-up of Companies and Associations under this Act:

The fifth Part—to the Registration Office:

The sixth Part—to the application of this Act to Companies registered under Act XIX. of 1857 *(for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof)*, and Act VII. of 1860, *(to enable Joint Stock Banking Companies to be formed on the principle of limited liability)* or either of them:

The s[illegible] Part—to Companies authorized to register under this Act:

The e[illegible] unregistered Companies:

The [illegible]

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

Mode of forming Company.

VI. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Mode of limiting liability of members.

VII. The liability of the members of a Company formed under this Act may, according to the memorandum of Association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Memorandum of association of a Company limited by shares.

VIII. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things, (that is to say) :—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that the liability of the members is limited:

(5.) The amount of Capital with which the Company proposes to be registered divided into shares of a certain fixed amount.

Subject to the following regulations :—

(1.) That no subscriber shall take less than one share.

(2.) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

Memorandum of association of a Company limited by guarantee.

IX. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up, hereinafter referred to as a Company limited by guarantee, the memorandum of association shall contain the following things, (that is to say):—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that each member undertakes to contribute to the assets of the [illegible] being wound up during the time [illegible] fterwards, for payment of the d[illegible] racted before the time at which [illegible] ase[illegible], charges, and

expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

Memorandum of association of an unlimited Company.

X. Where a Company is formed on the principle of having no limit placed on the liability of its members, hereinafter referred to as an Unlimited Company, the memorandum of association shall contain the following things, (that is to say):—

(1.) The name of the proposed Company:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established.

Stamp, signature, and effect of memorandum of association.

XI. The memorandum of association shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained on the part of himself, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

XII. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by Special Resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock, but, save as aforesaid, and save as hereinafter provided in the case of a change of name, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Power of Companies to change name.

XIII. Any Company under this Act, with the sanction of a Special Resolution of the Company passed in manner hereinafter mentioned, and with the approval of the local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted, or to be instituted, by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Articles of Association.

Re[illegible] presc[illegible] of As[illegible]

XIV. The memorandum of association may, in the case of a company limited by shares, and shall, in the case of a [illegible]tee or unlimited, be accom- [illegible]y Articles of Association sign[illegible] [illegible]dum of association, and prese[illegible] [illegible] as the subscribers to the

memorandum of association deem expedient. The Articles shall be expressed in separate paragraphs, numbered arithmetically : They may adopt all or any of the provisions contained in the Table marked A in the first Schedule hereto : They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered; and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application of Table A.

XV. In the case of a Company limited by shares, if the memorandum of association is not accompanied by Articles of Association, or, in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the first Schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in Articles of Association and the Articles had been duly registered.

Stamp, signature, and effect of Articles of Association.

XVI. The Articles of Association shall be printed; they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors and administrators, to conform to all the regulations contained in such Articles, subject to the provisions of this Act. All monies payable by any member to the Company, in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

Registration of memorandum of association and Articles of Association with fees as in Table B.

XVII. The memorandum of association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies hereinafter mentioned, who shall retain and register the same. There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the Table marked B in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the first Schedule hereto, the several fees therein specified, or such smal[illegible]dia in Council may from time t[illegible]gistrar in pursuance of this Ac[illegible]

XVIII. Upon the [illegible]ciation

Effect of registration.

and of the Articles of Association in cases where Articles of Association are required by this Act, or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a Limited Company that the Company is limited; the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a Body Corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned. A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and Articles to be given to members.

XIX. A copy of the memorandum of association, having annexed thereto the Articles of Association, if any, shall be forwarded to every member, at his request, on payment of the sum of one rupee, or such less sum as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and Articles of Association, if any, to a member in pursuance of this Section, the Company so making default shall for each offence incur a penalty not exceeding 20 Rupees.

Prohibition against identity of names in Companies.

XX. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires. If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first mentioned Company may, with the sanction of the Registrar, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumtances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name, that might have been continued or commenced against the Company by its former name.

PART II.

Distribution of Capital and Liability of Members of Companies and Associations under this Act.

Natur[illegible] Compa[illegible]

X[illegible] member in a Company [illegible]able property capable of [illegible] provided by the regula-

tions of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Definition of "Member."

XXII. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the Register of Members hereinafter mentioned; and every other person who has agreed to become a member of a Company under this Act, and whose name is entered on the Register of Members, shall be deemed to be a member of the Company.

Transfer by personal representative.

XXIII. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of Members.

XXIV. Every Company under this Act shall cause to be kept in one or more books a Register of its members, and there shall be entered therein the following particulars:—

(1.)—The names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number; and of the amount paid or agreed to be considered as paid on the shares of each member:

(2.)—The date at which the name of any person was entered in the Register as a member:

(3.)—The date at which any person ceased to be a member.

Any Company acting in contravention of this Section shall incur a penalty not exceeding 50 Rupees for every day during which its default in complying with the provisions of this Section continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such contravention shall incur the like penalty.

Annual list of members.

XXV. Every Company under this Act, and having a capital divided into shares, shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General Meeting, or if there is more than one Ordinary Meeting in each year the first of such Ordinary General Meetings is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

(1.)—The amount of the capital of the Company and the number of shares into which it is divided:

(2.)—The number of shares taken from the commencement of the Company up to the [illegible]

(3.)—The amou[illegible]

(4.)—The total [illegible]

(5.)—The total [illegible]

(6.)—The total amount of shares forfeited:

(7.)—The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company, &c., not keeping a proper Register.

XXVI. If any Company under this Act, and, having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding 50 Rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.

XXVII. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division, or conversion, give notice to the Registrar of Joint Stock Companies of the same, specifying the shares so consolidated, divided, or converted.

Effect of conversion of shares into stock.

XXVIII. Where any Company under this Act, and having a capital divided into shares, has converted any portion of its capital into stock, and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the Register of Members hereby required to be kept by the Company, and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of trusts on Register.

XXIX. No notice of any trust, express, implied, or constructive, shall be entered on the Register, or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares or stock.

XXX. A certificate under the common seal of the Company, specifying any share or shares or stock held by any member of a Company, shall be *primâ facie* evidence of the title of the member to the share or shares or stock therein specified.

Inspection of Register.

XXXI. The Register of Members, commencing from the date of the registration of the Company, shall be kept at the registered Office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any membe[illegible] [illegible] her person on the payment o[illegible] [illegible]pany may prescribe for each i[illegible] [illegible] person may require a copy o[illegible] [illegible] of such list or summary

of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding 50 Rupees, and a further penalty, not exceeding 20 Rupees, for every day during which such refusal continues. Every Director and Manager of the Company who shall knowingly authorize or permit such refusal, shall incur the like penalty. In addition to the above penalty, any Judge of a High Court may by order compel an immediate inspection of the Register.

Power to close Register.

XXXII. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered Office of the Company is situated, close the Register of Members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital and of members to be given to Registrar.

XXXIII. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and, where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital within fifteen days from the date of the passing of the Resolution by which such increase has been authorized, and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place, and the Registrar shall forthwith record the amount of such increase of capital or members. If such notice is not given within the period aforesaid, the Company in default shall incur a penalty, not exceeding 100 Rupees, for every day during which such neglect to give notice continues, and every Director and Manager of the Company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

Remedy for improper entry or omission of entry in Register.

XXXIV. If the name of any person is without sufficient cause entered in, or omitted from, the Register of Members of any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the Register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered Office of the Company is situate, apply for an order of the Court that the Register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Court may in any proceeding under this Section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the Register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the

rectification of the Register: Provided that the Court may direct an issue to be tried in which any question of law may be raised, and an appeal in the manner directed by the Code of Civil Procedure shall lie.

Notice to Registrar of rectification of Register.

XXXV. Whenever any order has been made for rectifying the Register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall by its order direct that due notice of such rectification be given to the Registrar.

Register to be evidence.

XXXVI. The Register of Members shall be *primâ facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

Liability of present and past members of Company.

XXXVII. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges, and expenses of the winding-up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following: (that is to say),—

(1.)—No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(2.)—No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(3.)—No past member shall be liable to contribute to the assets of the Company, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(4.)—In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(5.)—In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association:

(6.)—Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(7.)—No sum due to any member of a Company in his character of a member by way of dividends, profits, or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

Registered Office of Company.

XXXVIII. Every Company under this Act shall have a registered Office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an Office, it shall incur a penalty, not exceeding 50 Rupees, for every day during which business is so carried on.

Notice of situation of registered Office.

XXXIX. Notice of the situation of such registered Office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Publication of name by a limited Company.

XL. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every Office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language, and also, if the registered Office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements, and other official publications of such Company, and in all Bills of Exchange, Hoondies, Promissory Notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Penalties on non-publication of name.

XLI. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty, not exceeding 50 Rupees, for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed. Every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty. If any Director, Manager or Officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company, any Bill of Exchange, Hoondi, Promissory Note, endorsement, cheque, or order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of 1,000 Rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hoondi, Promissory Note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

XLII. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say),—

Contracts how made.

(1.)—Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company, and such contract may be in the same manner varied or discharged:

(2.)—Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged:

(3.)—Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

Register of mortgages.

XLIII. Every limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge. If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager, or other Officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding 5,000 Rupees. The Register of Mortgages required by this Section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any Officer of the Company refusing the same, and every Director and Manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding 500 Rupees, and a further penalty, not exceeding 20 Rupees, for every day during which such refusal continues. In addition to the above penalty any Judge of the High Court may by order compel an immediate inspection of the Register.

Certain Companies to publish statement entered in Schedule.

XLIV. Every limited Banking Company and every Insurance Company, and Deposit, Provident or Benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first Schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up in a conspicuous place in the registered Office of the Company and in every branch Office or place where the business of the Company is carried on. If default is made in compliance with the provisions of this Section, the Company shall be liable to a pe[illegible] pees, for every day during which

such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this Section shall be entitled to a copy of the abovementioned statement on payment of a sum not exceeding eight annas.

List of Directors to be sent to Registrar.

XLV. Every Company under this Act, and not having a capital divided into shares, shall keep at its registered Office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

Penalty on Company not keeping Register of Directors.

XLVI. If any Company under this Act, and not having a capital divided into shares, makes default in keeping a Register of its Directors or Managers, or in sending a copy of such Register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such Directors or Managers, such delinquent Company shall incur a penalty, not exceeding 100 Rupees, for every day during which such default continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Promissory Notes, Bills of Exchange, and Hoondies.

XLVII. A Promissory Note, Bill of Exchange, or Hoondie shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

Prohibition against carrying on business with less than seven members.

XLVIII. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

General Meeting of Company.

Balance Sheet.

XLIX. A General Meeting of every Company under this Act shall be held once at the least in every year. A balance-sheet shall be made out in every year, and laid before the Company in General Meeting and filed with the Registrar of Joint Stock Companies, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first Schedule hereto, or as near thereto as circumstances admit. And once at the least in every year the accounts of the Company shall be examined and the correctness of the balance-sheet ascertained by

Audit.

one or more auditor or auditors. If default is made in compliance with any of the provisions of this Section, every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default, shall be liable to a penalty of 1,000 Rupees.

Power to alter regulations by special Resolution.

L. Subject to the provisions of this Act, and to the conditions contained in the memorandum of association, any Company formed under this Act may, in General Meeting, from time to time, and by passing a Special Resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the Articles of Association, or in the Table marked A in the first Schedule where such Table is applicable to the Company, or make new regulations to the exclusion of, or in addition to, all or any of the regulations of the Company. Any regulations so made by Special Resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the Articles of Association, and shall be subject in like manner to be altered or modified by any subsequent Special Resolution.

Definition of Special Resolution.

LI. A Resolution passed by a Company under this Act shall be deemed to be special, whenever a Resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed), at any General Meeting of which notice specifying the intention to propose such Resolution has been duly given, and such Resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent General Meeting of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such Resolution was first passed. At any meeting mentioned in this Section, unless a poll is demanded by at least five members, a declaration of the Chairman that the Resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this Section, when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision where no regulations as to meetings.

LII. In default of any regulations as to voting every member shall have one vote, and in default of any regulations as to summoning General Meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the Table marked A in the first Schedule here[illegible] In default of any regulations as to the persons to summon meetings, [illegible] competent to summon the same, and in default of a[illegible] regulations as to who[illegible]s to be Chairman of such meeting, it shall [illegible] son elected by the members present to preside.

Registry of Special Resolutions.

LIII. A copy of every Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the Resolution, the Company shall incur a penalty, not exceeding 20 Rupees, for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Copies of Special Resolutions.

LIV. Where Articles of Association have been registered, a copy of every Special Resolution for the time being in force shall be annexed to, or embodied in, every copy of the Articles of Association that may be issued after the passing of such Resolution. Where no Articles of Association have been registered, a copy of every Special Resolution shall be forwarded in print to any member requesting the same, on payment of one rupee or such less sum as the Company may direct. If any Company makes default in complying with the provisions of this Section, it shall incur a penalty, not exceeding 20 Rupees, for each copy in respect of which such default is made; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Execution of deeds abroad.

LV. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its Attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such Attorney on behalf of the Company and under his seal, shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Examination of affairs of Company by Inspectors.

LVI. The local Government may appoint one or more competent Inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the local Government may direct upon the applications following, (that is to say):—

(1.)—In the case of a Banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(2.)—In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the Register of the Company as members.

Application for inspection to be supported by evidence.

LVII. The application shall be supported by such evidence as the local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The local Government may also require the applicants to give security for payment of the costs of the enquiry before appointing any Inspector or Inspectors.

Inspection of books.

LVIII. It shall be the duty of all Officers and Agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath or affirmation the Officers and Agents of the Company in relation to its business, and may administer such oath or affirmation accordingly. If any such Officer or Agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding 100 Rupees in respect of each offence.

Result of examination how dealt with.

LIX. Upon the conclusion of the examination, the Inspectors shall report their opinions to the local Government. Such report shall be written or printed as the local Government directs. A copy shall be forwarded by the local Government to the registered Office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of, and incidental to, any such examination as aforesaid shall be defrayed by the members upon whose application the Inspectors were appointed, unless the local Government shall direct the same to be paid out of the assets of the Company, which the local Government is hereby authorized to do.

Power of Company to appoint Inspectors.

LX. Any Company under this Act may, by a Special Resolution, appoint Inspectors for the purpose of examining into the affairs of the Company. Inspectors so appointed shall have the same powers, and perform the same duties, as Inspectors appointed by the local Government, with this exception, that, instead of making their report to the local Government, they shall make the same in such manner and to such persons as the Company in General Meeting directs. The Officers and Agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such Inspectors or to answer any question, as they would have incurred if such Inspectors had been appointed by the local Government.

Report of Inspectors to be evidence.

LXI. A copy of the report of any Inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the Inspectors in relation to any matter contained in such report.

Notices.

Service of notices on Company.

LXII. Any summons, notice, order, or other document required to be served upon the Company, may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered Office; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

Rules as to notices by letter.

LXIII. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the [illegible] for the service thereof; and

in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the Post Office.

Authentication of notices by Company.

LXIV. Any summons, notice, order, or proceeding requiring authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

Evidence of proceedings at meetings.

LXV. Every Company under this Act shall cause Minutes of all Resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time provided for the purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the meeting at which such Resolutions were passed or proceedings had, or by the Chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings. Until the contrary is proved, every General Meeting of the Company or Meeting of Directors or Managers in respect of the proceedings of which Minutes have been so made shall be deemed to have been duly held and convened, and all Resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of Directors, Managers, or Liquidators shall be deemed to be valid, and all acts done by such Directors, Managers or Liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Provision as to costs in suits brought by certain limited Companies.

LXVI. Where a limited Company is plaintiff in any suit, any Judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Plaint in suits against members.

LXVII. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company, and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

Governor-General in Council may alter forms in Schedule.

LXVIII. The forms set forth in the second Schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. The Governor-General of India in Council may from time to time make such alterations in the Tables and forms contained in the first Schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said Schedule mentioned, and in the forms in the second Schedule, or make such additions to the last-mentioned forms, as he deems requisite. Any such Table or form when

altered, shall be published in the *Gazette of India*, and upon such publication being made, such Table or form shall have the same force as if it were included in the Schedule to this Act, but no alteration made by the Governor-General of India in Council in the Table marked A contained in the first Schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such Table.

Arbitrations.

Power for Companies to refer matters to arbitration.

LXIX. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing body of such Companies.

Power to alter or revoke agreements for reference.

LXX. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions, or stipulations thereof.

Agreements to be carried into effect.

LXXI. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may, and shall be, carried into full effect.

Reference to Arbitrator.

LXXII. Where the Companies agree, the reference shall be made to a single Arbitrator.

Reference to two or more Arbitrators.

LXXIII. Except where the Companies agree that the reference shall be made to a single Arbitrator, the reference shall be made as follows, to wit:—

Where there are two Companies, the reference shall be made to two Arbitrators:

Where there are three or more Companies, the reference shall be made to so many Arbitrators as there are Companies.

Appointment of Arbitrators by Companies.

LXXIV. Where there are to be two or more Arbitrators, every Company shall by writing, under their common seal, appoint one of the Arbitrators, and shall give notice in writing thereof to the other Company or Companies.

Appointment of Arbitrators by local Government.

LXXV. Where there are to be two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies, or any of them, then, on the application of the Companies or any of them, the local Government, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator. The Arbitrator so appointed shall, fo[illegible] be deemed to be appointed by the Company s[illegible]

Appointment of Arbitrators by Companies to supply vacancies.

LXXVI. W[illegible] to two or more Arbitra-[illegible]ters referred to them are [illegible]r dies, or becomes incapable [illegible]secutive days fails to act as

Arbitrator, the Company by which he was appointed shall, by writing under their common seal, appoint an Arbitrator in his place.

Appointment of Arbitrators by local Government to supply vacancies.

LXXVII. Where the Company by which any Arbitrator ought to be appointed in the place of the Arbitrator so deceased, incapable, unfit, or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies, or any of them, then, on the application of the Companies or any of them, the local Government may appoint an Arbitrator. The Arbitrator so appointed shall, for the purposes of this Act, be deemed to be appointed by the Company so failing.

Appointment of Arbitrator not revocable.

LXXVIII. When any appointment of an Arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

Appointment of Umpire by Arbitrators.

LXXIX. Where two or more Arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their Umpire.

Appointment of Umpire by local Government.

LXXX. If the Arbitrators do not appoint an Umpire within seven days after the reference is made to the Arbitrators, then, on the application of the Companies or any of them, the local Government may appoint an Umpire; and the Umpire so appointed shall, for the purposes of this Act, be deemed to be appointed by the Arbitrators.

Appointment of Umpire by Arbitrators to supply vacancy.

LXXXI. Where two or more Arbitrators are appointed, if before the matters referred to them are determined their Umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Umpire, the Arbitrators shall, by writing under their hands appoint an impartial and qualified person to be their Umpire in his place.

Appointment of Umpire by local Government to supply vacancy.

LXXXII. If the Arbitrators fail to appoint an Umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their Umpire, then, on the application of the Companies or any of them, the local Government may appoint an Umpire. The Umpire so appointed shall, for the purposes of this Act, be deemed to be appointed by the Arbitrators so failing.

Succeeding Arbitrators and Umpires to have powers of predecessors.

LXXXIII. Every Arbitrator appointed in the place of a preceding Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like powers and authorities as his respective predecessors.

Reference to Umpire.

LXXXIV. Where there are two or more Arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the Arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their Umpire.

LXXXV. The Arbitrator, and the Arbitrators, and the Umpire

Power of Arbitrators, &c., to call for books, &c., and administer oath.

respectively may call for the production of any cuments or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the Arbitrator, or the Arbitrators, or the Umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath or affirmation, and may administer the requisite oath or affirmation.

Procedure in the arbitration.

LXXXVI. Except where and as the Companies otherwise agree, the Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in absence of Companies.

LXXXVII. The Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the Arbitrator, or the Arbitrators, or the Umpire shall think fit so to proceed.

Several awards may be made.

LXXXVIII. The Arbitrator, and the Arbitrators, and the Umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred. Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the Arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that, notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

LXXXIX. The award of the Arbitrator, or of the Arbitrators, or of the Umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next, after the matters in difference are referred to (as the case may be) the Arbitrator, or the Arbitrators, or the Umpire, shall be binding and conclusive on all the Companies.

Power for Umpire to extend period for making his award.

XC. Provided, always, that (except where and as the Companies otherwise agree) the Umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not to be set aside for informality.

XCI. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards to be obeyed.

XCII. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance

with this Act lawfully required to de done, omitted, or suffered, shall be done, omitted or suffered accordingly.

Agreements, arbitrations, and awards to have effect.

CXIII. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise to all agreements references, arbitrations and awards, in accordance with this Act: and the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Costs of arbitration and award.

XCIV. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the Arbitrator, and the Arbitrators, and the Umpire respectively.

Payment of costs.

XCV. Except where and as the Companies otherwise agree, and if, and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Submission to arbitration to be filed in Court.

XCVI. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

Meaning of contributory.

XCVII. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Nature of liability of contributory.

XCVIII. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

Contributories in case of death.

XCIX. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees

shall be liable in a due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

Contributories in case of insolvency.

C. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

Circumstances under which Company may be wound up by Court.

CI. A Company under this Act may be wound up by the Court as hereinafter defined, under the following circumstances, (that is to say):—

(1.)—Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.)—Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3.)—Whenever the members are reduced in number to less than seven:

(4.)—Whenever the Company is unable to pay its debts:

(5.)—Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its debts.

CII. A Company under this Act shall be deemed to be unable to pay its debts—

(1.)—Whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding 500 Rupees than due, has served on the Company, by leaving the same at its registered Office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

(2.)—Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor, in any proceeding instituted by such creditor against the Company, is returned unsatisfied in whole or in part:

(3.)—Whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

Definition of "the Court."

CIII. The expression "the Court," as used in this Part of this Act, shall mean the principal Court having original civil jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the management of the Company it shall be stipulated that the Company if wound up shall be wound up by the High Court of Judicature at Fort William, Madras, or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

Application for winding-up to be made by petition.

CIV. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories of the Company, or by all or any of the above parties, together or separately. Every order which may be made made on any such petition shall operate in favour of all the creditors and all the contributories of the Company, in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

Commencement of winding-up by Court.

CV. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction.

CVI. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit. The Court may also at any time after the presentation of such petition and before the first appointment of Liquidators, appoint provisionally an Official Liquidator of the estate and effects of the Company.

Course to be pursued by Court on hearing petition.

CVII. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Suits to be stayed after order for winding-up.

CVIII. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

CIX. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies, who shall make a Minute thereof in his books relating to the Company.

Power of Court to stay proceedings.

CX. The Court may at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Effect of order on share-capital of Company limited by guarantee.

CXI When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

CXII. The Court may, as to all matters relating to the winding-

Court may have regard to wishes of creditors or contributories.

up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

Appointment of Official Liquidator.

CXIII. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons to be called an Official Liquidator or Official Liquidators. The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidator or Official Liquidators. In all cases, if more persons than one are appointed to the office of Official Liquidator, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any, and what, security is to be given by any Official Liquidator on his appointment. If no Official Liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

Resignations, removals, filling up vacancies, and compensation.

CXIV. Any Official Liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an Official Liquidator appointed by the Court shall be filled by the Court. There shall be paid to the Official Liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more Liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

Style and duties of Official Liquidator.

CXV. The Official Liquidator or Liquidators shall be described by the style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual name or names. He or they shall take into his or their custody, or under his or their control, all the property, effects, and things in action to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidator.

CXVI. The Official Liquidator shall have power, with the sanction of the Court, to do the following things:—

(1.)—To bring or defend any suit or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company:

(2.)—To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same:

(3.)—To sell the immoveable and moveable property, effects, and things in action of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels:

(4.)—To do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the Company's seal:

(5.)—To prove, rank, claim, and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors:

(6.)—To draw, accept, make, and endorse any Bill of Exchange, Hoondi, or Promissory Note in the name and on behalf of the Company, also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money; and the drawing, accepting, making, or endorsing of every such Bill of Exchange, Hoondi, or Promissory Note as aforesaid on behalf of the Company, shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made, or endorsed by or on behalf of such Company in the course of carrying on the business thereof:

(7.)—To take out, if necessary, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the Official Liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties, and privileges of the Administrators-General and Officiating Administrators-General of Bengal, Madras, and Bombay, respectively:

(8.)—To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Discretion of Official Liquidator.

CXVII. The Court may provide by any order that the Official Liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an Official Liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of Attorney or Vakeel to Official Liquidator.

CXVIII. The Official Liquidator may, with the sanction of the Court, appoint an Attorney or Vakeel to assist him in the performance of his duties.

Ordinary Powers of Court.

Collection and application of assets.

CXIX. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the Register of Members in all cases where such rectification is required in pursuance of this Act, and shall cause the a[illegible] be collected and applied in discharge of its li[illegible]

Provision as to representative contributories.

CXX. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to, the debts of others.

Power of Court to require delivery of property.

CXXI. The Court may at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker, or agent, or Officer of the Company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to or into the hands of the Official Liquidator any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *primâ facie* entitled.

Power of Court to order payments of debts by contributory.

CXXII. The Court may at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories, diecting payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this Part of this Act. The Court may in making such order when the Company is not limited, allow to such contributory by way of set-off any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits: Provided that when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

Power of Court to make calls.

CXXIII. The Court may at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves. The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order payment into Bank.

CXXIV. The Court may order any contributory, purchaser, or other person from whom money is due to the Company, to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the Official Liquidator instead of to the Official Liquidator, and such order may be enforced in the same manner as if it had directed payment to the Official Liquidator.

CXXV. All monies, bills, notes, and other securities, paid and

Regulation of account with Court.

delivered into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same, as the Court may direct.

Provision in case of representative contributory not paying monies ordered.

CXXVI. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable, or both, and of compelling payment thereout of the monies due.

Order conclusive evidence.

CXXVII. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Court may exclude creditors not proving within certain time.

CXXVIII. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court to adjust rights of contributories.

CXXIX. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Court to order costs.

CXXX. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges, and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

Dissolution of Company.

CXXXI. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Registrar to make Minute of dissolution of Company.

CXXXII. Any order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the dissolution of such Company.

Penalty on not reporting dissolution of Company.

CXXXIII. If the Official Liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding 100 Rupees for every day during which he is so in default.

Extraordinary Powers of Court.

Power of Court to summon persons before it suspected of having property of Company.

CXXXIV. The Court may, after it has made an order for winding-up the Company, summon before it any Officer of the Company or person known or suspected to have in his possession any of the estate or effects of the Com[illegible] indebted to the Company, or any person [illegible] capable of giving

information concerning the trade, dealings, estate, or effects of the Company. The Court may require any such Officer or person to produce any documents in his custody or power relating to the Company. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Examination of parties by Court.

CXXXV. The Court may examine upon oath or affirmation, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the affairs, dealings, estate, or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

CXXXVI. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

CXXXVII. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Enforcement of, and Appeal from, Orders.

Power to enforce orders.

CXXXVIII. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

CXXXIX. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered Office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

CXL. Where any order or decree made by one Court is required to be enforced by another Court as hereinafter provided, a certified copy of the order or decree so made shall be produced to the proper Officer of the Court

required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made, and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

Appeals from orders.

CXLI. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its oridinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of Appeal.

Judicial notice to be taken of signature of Officers.

CXLII. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other Officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any Officer of any other Court, and also of the official seal of any other Court when such seal is appended to any document made, issued, or signed under the provisions of this Part of the Act, or any official copy thereof.

Special Commissioners for receiving evidence.

CXLIII. The Judges of the District Courts who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court, and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company. Every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses and requiring the production or delivery of documents and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

CXLIV. If any affidavit, affirmation, or declaration required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any Colony, Island, Plantation, or place under the dominion of Her Majesty in foreign parts, before any Court, Judge, or person lawfully authorized to take and receive affidavits, affirmations, or declarat[illegible] Majesty's Consuls or Vice-Consuls in any forei[illegible]ty's dominions, all

Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

CXLV. A Company under this Act may be wound up voluntarily—

(1.)—Whenever the period, if any, fixed for the duration of the Company by the Articles of Association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.)—Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.)—Whenever the Company has passed an Extraordinary Resolution to the effect that it has been proved to their satisfaction that the Company cannot by reason of its liabilities continue its business, and that it is advisable to wind-up the same:

For the purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a Special Resolution as hereinbefore defined.

Commencement of voluntary winding-up.

CXLVI. A voluntary winding-up shall be deemed to commence at the time of the passing of the Resolution authorizing such winding-up.

Effect of voluntary winding-up on status of Company.

CXLVII. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares except transfers made to or with the sanction of the Liquidators, or alteration in the *status* of the members of the Company taking place after the commencement of such winding-up, shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the Company are wound up.

Notice of Resolution to wind-up voluntarily.

CXLVIII. Notice of any Special Resolution or Extraordinary Resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local Official Gazette, and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate.

Consequence of voluntary winding-up.

CXLIX. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(1.)—The property of the Company shall be applied in satisfaction of its liabilties *pari passu*, and subject thereto shall, unless it be otherwise provided by the regulations of the Company, be distributed amongst the members according to their rights and interests in the Company:

(2.)—Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property:

(3.)—The Company in General Meeting shall appoint such persons or person as it thinks fit to be Liquidators or a Liquidator, and may fix the remuneration to be paid to them or him:

(4.)—If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him:

(5.)—Upon the appointment of Liquidators, all the powers of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the continuance of such powers:

(6.)—When several Liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

(7.)—The Liquidators may, without the sanction of the Court, exercise all powers by this Act given to the Official Liquidators:

(8.—)The Liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *primâ facie* evidence of the liability of the persons named therein to be contributories:

(9.)—The Liquidators may at any time after the passing of the Resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Comany, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and the Liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.)—The Liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

Effect of winding-up on share-capital of Company limited by guarantee.

CL. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Liquidators.

Power of Company to delegate authority to appoint Liquidators.

CLI. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an Extraordinary Resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing Liquidators or any of them and supplying any vacancies in the appointment of Liquidators, or may by a like Resolution enter into any arrangement with respect to the powers to be exercised by the Liquidators and the manner in which they are to be exercised. Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Arrangement when binding on creditors.

CLII. Any arrangement which a Company about to be wound up voluntarily in the course of being wound up voluntarily shall have entered into with its creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the creditors if acced[illegible] number and value

of the creditors, subject to such right of appeal as is hereinafter mentioned.

Power of creditor or contributory to appeal.

CLIII. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary, or confirm the same.

Power for Liquidators or contributories in voluntary winding-up to apply to Court.

CLIV. Where a Company is being wound up voluntarily, the Liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing of calls or in respect of any other matter all or any of the powers which the Court might exercise if the Company were being wound up by the Court. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power of Liquidators to call General Meeting.

CLV. Where a Company is being wound up voluntarily, the Liquidators may, from time to time during the continuance of such winding-up, summon General Meetings of the Company for the purpose of obtaining the sanction of the Company by Special Resolution or Extraordinary Resolution, or for any other purposes they think fit. In the event of the winding-up continuing for more than one year, the Liquidators shall summon a General Meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings and the manner in which the winding-up has been conducted during the preceding year.

Power to fill up vacancy in office of Liquidators.

CLVI. If any vacancy occurs in the office of Liquidators, appointed by the Company, by death, resignation, or otherwise, the Company in General Meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a General Meeting for the purpose of filling up such vacancy may be convened by the continuing Liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held, if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing Liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power of Court to appoint Liquidators.

CLVII. If from any cause whatever there is no Liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a Liquidator or Liquidators. The Court may also, on due cause shown, remove any Liquidator, and appoint another Liquidator to act in the matter of a voluntary winding-up.

Liquidators on conclusion of winding-up to make up an account.

CLVIII. As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed

of; and thereupon they shall call a General Meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the Liquidators. The meeting shall be called by advertisement, specifying the time, place, and object of such meeting, and such advertisement shall be published one month at least previously to the meeting, in the manner specified in Section 148.

Liquidators to report meeting to Registrar.

CLIX. The Liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved. If the Liquidators make default in making such return to the Registrar, they shall incur a penalty, not exceeding 50 Rupees, for every day during which such default continues.

Costs of voluntary liquidation.

CLX. All costs, charges, and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assests of the Company in priority to all other claims.

Saving of rights of creditors.

CLXI. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

CLXII. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

Power of Court, on application, to direct winding-up subject to supervision.

CLXIII. When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally upon such terms, and subject to such conditions, as the Court thinks just.

Petition for winding-up subject to supervision.

CLXIV. A petition praying wholly or in part that a voluntary winding-up should continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

Court may have regard to wishes of creditors.

CLXV. The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of a Liqui[illegible] and in all other matters [illegible] subject to supervision, have regard to the [illegible] contributories as

proved to it by any sufficient evidence, and may direct meetings of the creditors or contributors to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional Liquidators in winding-up subject to supervision.

CLXVI. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional Liquidator or Liquidators. Any Liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all repects stand in the same position as if they had been appointed by the Company. The Court may from time to time remove any Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision.

CLXVII. Where an order is made for a winding-up subject to the supervision of the Court, the Liquidators appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily. Save as aforesaid, any order made by the Court for a winding-up, subject to the supervision of the Court, shall, for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the Liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court. In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the Official Liquidators, the expression 'Official Liquidators' shall be deemed to mean the Liquidators conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary Liquidators to office of Official Liquidators.

CLXVIII. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other persons to be Official Liquidators.

Supplemental Provisions.

Dispositions after the commencement of the winding-up avoided.

CLXIX. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects, and things in action of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

The books of the Company to be evidence.

CLXX. Where any Company is being wound up, all books, accounts, and documents of the Company and of the Liquidators shall, as between the contributories of the Company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

As to disposal of books, accounts, and documents of the Company.

CLXXI. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts, and documents of the Company and of the Liquidators may be disposed of in the following way, that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and where the Company has been wound up voluntarily, in such way as the Company by an Extraordinary Resolution directs. But after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the Liquidators, or any one to whom the custody of such books, accounts, and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

Inspection of books.

CLXXII. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

General scheme of liquidation may be sanctioned.

CLXXIII. The Liquidators may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the Liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

Power to compromise.

CLXXIV. The Liquidators may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist, between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Power for Liquidators to accept shares, &c., as

CLXXV. Where any C[illegible] be or is in the course of [illegible] r voluntarily, and the whol[illegible] iess or property is

a consideration for sale of property of Company.

proposed to be transferred or sold to another Company, the Liquidators of the first mentioned Company may, with the sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general authority on the Liquidators, or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company; and any sale made or arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favor of the Special Resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such Special Resolution in writing addressed to the Liquidators or one of them, and left at the registered Office of the Company not later than seven days after the date of the meeting at which such Special Resolution was passed, such dissentient member may require the Liquidators to do one of the following things as the Liquidators may prefer, that is to say, either to abstain from carrying such Resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by Special Resolution. No Special Resolution shall be deemed invalid for the purposes of this Section by reason that it is passed antecedently to, or concurrently with, any Resolution for winding-up the Company, or for appointing Liquidators; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such Resolution shall not be of any validity unless it is sanctioned by the Court.

Mode of determining price.

CLXXVI. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Appointment of Arbitrator when questions are to be determined by arbitration.

CLXXVII. When any dispute so directed to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an Arbitrator to whom such dispute shall be referred. After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation. If for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an Arbitrator, such last-mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself

appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single Arbitrator shall be final.

Vacancy of Arbitrator to be supplied.

CLXXVIII. If before the matters so referred shall be determined any Arbitrator appointed by either party die, or become incapable, or refuse, or for seven days neglect to act as Arbitrator, the party by whom such Arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte*; and every Arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death, refusal, or disability as aforesaid.

Appointment of Umpire.

CLXXIX. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Umpire to decide on any such matters on which they shall differ. If such Umpire shall die, or refuse, or for seven days neglect to act, they shall forthwith, after such death, refusal, or neglect, appoint another Umpire in his place; and the decision of every such Umpire on the matters so referred to him shall be final.

Power of Arbitrators to call for books, &c.

CLXXX. The said Arbitrators or their Umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Costs to be in the discretion of the Arbitrators.

CLXXXI. The costs of and attending every such arbitration to be determined by the Arbitrators shall be in the discretion of the Arbitrators or their Umpires, as the case may be.

Submission to arbitration may be filed in Court.

CLXXXII. On the application of either of the parties the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Certain attachments, distresses, and executions to be void.

CLXXXIII. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress, or execution put in force against the estate or effects of the Company after the commencement of the winding-up shall be void.

Fraudulent preference.

CLXXXIV. Every conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way

of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly. For the purposes of this Section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a Resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees for the benefit of all its creditors, shall be void.

Power of Court to assess damages against delinquent Directors and Officers.

CLXXXV. Where in the course of the winding-up of any Company under this Act, it appears that any past or present Director, Manager, Official or other Liquidator, or any Officer of such Company, has misapplied or retained in his own hands or become liable or accountable for any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any Liquidator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager, or other Officer, and compel him to repay any monies so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the Court thinks just.

Penalty on falsification of books.

CLXXXVI. If any Director, Officer, or contributory of any Company wound up under this Act, destroys, mutilates, alters, falsifies, or fraudulently secretes any books, papers, writings, or securities, or makes, or is privy to the making of, any false or fraudulent entry in any Register, book of account or other document belonging to the Company with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment of either description as defined in the Indian Penal Code, for a term which may extend to two years, and shall also be liable to fine which may extend to 500 Rupees.

Prosecution of delinquent Directors in the case of winding-up by Court.

CLXXXVII. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present Director, Manager, Officer, or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up, or of its own motion, direct the Official Liquidators, or the Liquidators (as the case may be), to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

Penalty of false evidence.

CLXXXVIII. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition, or solemn affirmation in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally

gives false evidence, he shall, upon conviction, be liable to imprisonment of either description as defined in the Indian Penal Code for a term which may extend to seven years, and shall also be liable to fine.

Power of High Court to make Rules.

Power of High Court to make rules.

CLXXXIX. The High Court may make such rules concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, as may from time to time seem necessary and as may be consistent with the other provisions of this Act and with the Code of Civil Procedure. But until such rules are made, the general practice of the Court including the practice hitherto in use in winding-up Companies shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding-up a Company.

PART V.

Registration Office.

Constitution of Registration Office.

CXC. The registration of Companies under this Act shall be conducted as follows; (that is to say) :—

(1.)—The local Government may, after the sanction of the Governor-General of India in Council to the creation of any such Offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(2.)—The local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks and servants as aforesaid :

(3.)—The local Government may from time to time determine the places at which Offices for the registration of Companies are to be established, so that there be at all times maintained in each of the three Presidency Towns of Calcutta, Madras, and Bombay at least one such office, and that no Company shall be registered except at an Office within that part of British India in which by the memorandum of association the registered Office of the Company is declared to be established :

(4.)—The local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for, or connected with, the registration of Companies :

(5.)—Every person may inspect the documents kept by the Registrar of Joint Stock Companies. There shall be paid for such inspection such fees as may be appointed by the local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other documemt or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the local Government may appoint, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract :

(6.)—The existing Registrar, Assistant Registrars, Clerks and other Officers and servants in the Office for the registration of Joint Stock Companies shall during the [illegible]easure of the local Government hold the Offices and receive the sal[illegible] [illegible]eived by them, but

they shall in the execution of their duties conform to any regulations that may be issued by the local Government:

(7.)—There shall be paid to any Registrar, Assistant Registrar, Clerk or servant that may hereafter be employed in the registration of Joint Stock Companies, such salary as the local Government may, with the sanction of the Governor-General of India in Council, direct:

(8.)—Whenever any act is herein directed to be done to or by the Registrar of Joint Stock Companies, such act shall, until the local Government otherwise directs, be done to or by the existing Registrar of Joint Stock Companies, or in his absence to or by such person as the local Government may for the time being authorize. But in the event of the local Government altering the constitution of the existing Registry Office, such act shall be done to or by such Officer or Officers and at such place or places with reference to the local situation of the registrered Offices of the Companies to be registered as the local Government may appoint.

PART VI.

Application of Act to Companies Registered under the Joint Stock Companies' Acts.

Application of Act to Companies formed under Act XIX. of 1857 or VII. of 1860.

CXCI. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to Companies formed and registered under Act XIX. of 1857 and Act VII. of 1860, or either of them, in the same manner in the case of a limited Company as if such Company had been formed and registered under this Act as a Company limited by shares; and in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by Special Resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the Table marked B annexed to Act XIX. of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the memorandum of association.

Application of Act to Companies registered under Act XIX. of 1857 or VII. of 1860.

CXCII. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of transferring shares.

CXCIII. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

Companies capable of being registered.

CXCIV. With the exceptions made in the next following Section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament, or Act of the Governor-General of India in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time thereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Regulations as to registration of existing Companies.

CXCV. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act) (that is to say) :—

(1.)—No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, and not being a Joint Stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof:

(2.)—No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an Unlimited Company, or as a Company limited by guarantee:

(3.)—No Life Assurance Company existing at the time of the commencement of this Act, and no Company that is not a Joint Stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares:

(4.)—No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy in cases where proxies are allowed by the regulations of the Company, at some General Meeting summoned for the purpose:

(5.)—Where a Company not having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council, or by Letters Patent, is about to register as a Limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members, present personally or by proxy, at such last-mentioned General Meeting:

(6.)—Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a Resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased [illegible] e costs, charges and expenses of winding-up th [illegible] adjustment of the

rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

In computing any majority under this Section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of "Joint Stock Company."

CXCVI. For the purposes of this Part of this Act so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company when registered with limited liability under this Act shall be deemed to be a Company limited by shares.

Requisitions for registration by Companies.

CXCVII. Previously to the registration, in pursuance of this Part of this Act, of any Joint Stock Company, there shall be delivered to the Registrar the following documents, (that is to say):—

(1.)—A list showing the names, addresses, and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(2.)—A copy of any Act of Parliament or Act of the Governor-General of India in Council, Royal Charter, Letters Patent, Deed of Settlement, Contract of Co-partnery or other instrument constituting or regulating the Company:

(3.)—If any such Joint Stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars, (that is to say):—

The nominal capital of the Company and the number of shares into which it is divided:

The number of shares taken and the amount paid on each share:

The name of the Company, with the addition of the word "Limited" as the last word thereof:

With the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of the guarantee.

Requisitions for registration by existing Company not being a Joint Stock Company.

CXCVIII. Previously to the registration in pursuance of this Part of this Act or any Company not being a Joint Stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the Directors or other Managers (if any) of the Company, also a copy of any Act of Partiament, Act of the Governor-General of India in Council, Letters Patent, Deed of Settlement, Contract of Co-partnery or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of guarantee.

Power of existing Company to register amount of stock instead of shares.

CXCIX. Where a Joint Stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

CC. The lists of members and Directors and any other particulars relating to the Company hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same or any two of them, or of any two other principal Officers of the Company made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company.

CCI. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as hereinbefore defined.

On registration of Banking Company with limited liability, notice to be given to customers.

CCII. Every Banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company. Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company. In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption of certain Companies from payment of fees.

CCIII. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General of India in Council, or by Letters Patent.

Company to change name.

CCIV. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited."

Certificate of registration of existing Companies.

CCV. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on paymen[illegible] are payable under the Tab[illegible] the first Schedule

hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate to be evidence of compliance with Act.

CCVI. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

Transfer of property to Company.

CCVII. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and things in action, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to, and vest in, the Company as incorporated under this Act for all the estate and interest of the Company therein.

Registration under this Act not to affect obligations incurred previously to registration.

CCVIII. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, such Company previously to such registration.

Continuation of existing suits.

CCIX. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public Officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

Effect of registration under Act.

CCX. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliment, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Co-partnery, Letters Patent, or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the Resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company in the same manner and with the same incidents as if they were contained in a registered memorandum of association and Articles of Association: and all the provisions of this Act shall apply to such Company and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following, (that is to say):—

(1.)—That Table A in the first Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(2.)—That the provisions of this Act relating to the numbering of shares shall not apply to any Joint Stock Company whose shares are not numbered:

(3.)—That no Company shall have power to alter any provision contained in any Act of Parliament, Act of the Legislative Council, or Act of the Governor-General of India in Council, relating to the Company:

(4.)—That no Company shall have power, without the sanction of the Governor-General of India in Council, to alter any provisions contained in any letters Patent relating to the Company:

(5.)—In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability; or to pay, or contribute to the payment of the costs, charges, and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of death or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representatives, heirs, and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, and to the husbands of married contributories, shall apply:

(6.)—Nothing herein contained shall authorize any Company to alter any such provisions contained in any Deed of Settlement, Contract of Co-partnery, Letters Patent, or other instrument constituting or regulating the Company, as would, if such Company had, originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof, by virtue of any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Co-partnery, Letters Patent, or other instrument constituting or regulating the Company.

Powers of Court to restrain further proceedings.

CCXI. The Court may, at any time after the presentation of a petition of winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Order for winding-up Company.

CCXII. Where an order has been made for winding-up a Company reg[illegible] s Part of the Act, in additi[illegible] nbefore contained,

it is hereby further provided that no suit or other legal proceedimg shall be commenced or proceeded with against any contributory of the Company in respect of any debts of the Conpany, except with the leave of the Court and subject to such terms as the Court may inpose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANY.

Winding-up of Unregistered Companies.

CCXIII. Subject as hereinafter mentioned, any partnership, association, or Company, except Railway Companies incorporated by Act of Parliament, or Act of the Governor-General of India in Council, consisting of more than seven members and notregistered under this Act, and hereinafter included under the term Unregistered Company, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions:—

(1.)—An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate; or if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an Unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered Office of the Company:

(2.)—No Unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court:

(3.)—The circumstances under which an Unregistered Company may be wound up are as follows, (that is to say):—

(*a.*)—Whenever the Company is dissolved, or has ceased to carry on business, or is carrying on business only for purpose of winding-up its affairs:

(*b.*)—Whenever the Company is unable to pay its debts:

(*c.*)—Whenever the Court is of opinion that it is just and equitable that the Company should be wound up:

(4.)—An Unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(*a.*)—Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding 500 Rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor:

(*b.*)—Whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or

claimed to be due from the Company, or from him in his character of member of the Company, and, notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the Secretary, or some Director, Manager, or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not within ten days after service of such notice paid, secured, or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same:

(*c.*)—Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied:

(*d.*)—Whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of Company being wound up.

CCXIV. In the event of an Unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges, and expenses of winding-up the Company. Every such contributory shall be liable to contribute to the assets of the Company, in course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs, and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

Power of Court to restrain further proceedings.

CCXV. The Court may, at any time after the making of an application for winding-up an Unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

CCXVI. Where an order has been made for winding-up an Unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in case of Unregistered Company.

CCXVII. If any Unregistered Company has no power to sue [illegible] f, for any [illegible] ay, by the [illegible] or by any subsequent order, di[illegible] immove-

able, including all interests, claims, and rights into and out of property, moveable and immoveable, and including things in action, as may belong, to, or be vested in, the Company, or to or in any person or persons on trust for or on behalf of the Company or any part of such property, is to vest in the Official Liquidator or Official Liquidators by his or their official name or names, and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

Provisions of this Part of Act cumulative.

CCXVIII. The provisions made by this Part of the Act with respect to Unregistered Companies shall be deemed, to be made in addition to, and not in restriction of any provisions hereinbefore contained with respect to winding-up Companies by the Court. The Court or Official Liquidator may, in addition to any thing contained in this Part of the Act, exercise any powers or do any act in the case of Unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an Unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

Repeal of Acts and Miscellaneous Provisions.

CCXIX.—CCXXII. *Repealed by the Repealing Act XIV.*, 1870.

Compulsory registration of certain Companies.

CCXXIII. Every Company required by any Act hereby repealed to register under the said Acts or either of them, and which has not so registered, shall, on or before the expiration of the thirty-first day from the commencement of this Act, register itself as a Company under this Act, in manner and subject to the regulations hereinbefore contained. No fees shall be charged in respect of the registration of any Company required to register by this Section.

Penalty on Company not registering.

CCXXIV. If any Company required by the last Section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such Company is required to register under this Act, until the day on which such Company is registered under this Act (which it is empowered to do at any time), the following consequence shall ensue, (that is to say)—

(1.)—The Company shall be incapable of suing, but shall not be incapable of being made a defendant to a suit:

(2.)—No dividend shall be payable to any shareholder in such Company:

(3.)—Each Director or Manager of the Company shall, for each day during which the Company so being in default carries on business, incur a penalty not exceeding 100 Rupees, and such penalty may

be recovered by any person, whether a shareholder or not in the Company, and be applied by him to his own use.

Nevertheless, such default shall not render the Company so being in default illegal, nor subject it to any penalty or disablity other than as specified in this Section, and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any Company may have incurred by reason of its not having registered under the said Act XIX. of 1856.

Cognizance of offences under this Act.

CCXXV. All offences under this Act may be tried by any officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act committed within local limits of High Court.

CCXXVI. If any offence which by this Act is declared to be punishable by any penalty shall be committed by any person within the local limits of the ordinary original civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of penalties by distress.

CCXXVII. All penalties imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the penalty.

Procedure until return is made to distress warrant.

CCXXVIII. In case any such penalty shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security, to the satisfaction of such Officer, for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

CCXXIX. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two months when the amount of penalty shall not exceed 50 Rupees, and for any term not exceeding four months when the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount of penalty.

Construction of "Registrar of Joint Stock Companies" in Act XXI. of 1860.

CCXXX. In Sections 1 and 18 of Act XXI. of 1860 *(for the registration of Literary, Scientific, and Charitable* [illegible] t Stock Com- [illegible] rar of Joint [illegible] Act for the time being in force.

Act not to apply to Bank of Bengal, Madras, or Bombay.

CCXXXI. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for the payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of————in consideration of the sum of Rupees——————paid to me by C D of————,do hereby transfer to the————said C D the share (or shares) numbered————standing

in my name in the books of the——————Company, to hold unto the said C D, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the——————day of——————

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited by a Resolution of t[illegible]

(20.) An[illegible] the property of the Company, a[illegible] s the Company in General Me[illegible]

Act not to apply to Bank of Bengal, Madras, or Bombay.

CCXXXI. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

Regulations for Management of a Company limited by Shares.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for the payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of————in consideration of the sum of Rupees——————paid to me by C D of————,do hereby transfer to the————said C D the share (or shares) numbered————standing

in my name in the books of the——————Company, to hold unto the said C D, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the——————day of——————

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited by a Resolution of t[illegible]

(20.) An[illegible] the property of the Company, a[illegible] the Company in General Me[illegible]

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a Resolution of the Directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such shares, shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes, as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The Directors may, with the sanction of a Special Resolution of the Company previously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient,

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept

the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first General Meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an Extraordinary General Meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the receipt of such requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other members amounting to the required number, may themselves convene an Extraordinary General Meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(36.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(37.) No business shall be transacted at any General Meeting, except the declaration of a dividend, unless a quorum of members is present at the [illegible] usiness. Such quorum shall b[illegible], if the persons who have taken [illegible] he meeting do not exceed ten [illegible] if they exceed

ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their member to be Chairman.

(41.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

(43.) If a poll is demanded by five or more members, it shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting. In the case of an equality of votes at any General Meeting the Chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the Register of Members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any General Meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a Corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered Office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form :—

Company, Limited.

I——————————of——————, being a member of the——————Company, Limited, and entitled to——————vote or————votes, hereby appoint————of————as my proxy, to vote for me and on my behalf at the (Ordinary *or* Extraordinary, *as the case may be*) General Meeting of the Company to be held on the——— day of————, and at any adjournment thereof (*or*, at any meeting of the Company that may be held in the year————). As witness my hand, this————day of————

Signed by the said——————————in the presence of———

Directors.

(52.) The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

(54.) The future remuneration of the Directors, and their remuneration for services performed previously to the first General Meeting, shall be determined by the Company in General Meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

(56.) The continuing Directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The [illegible]

If he holds [illegible] the Company ;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company;

But the above rules shall be subject to the following exceptions: That no Director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless, he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58.) At the first Ordinary Meeting after the registration of the Company, the whole of the Directors shall retire from office; and at the first Ordinary Meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to retire during the first and second years ensuing the first Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of Directors ought to take place, the places of the vacating Directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating Directors are not filled up, the vacating Directors, or such of them as have not had their places filled up, shall continue in office until the Ordinary Meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

(65.) The Company in General Meeting may, by a Special Resolution, remove any Director before the expiration of his period of office, and may by an Ordinary Resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or cast-

ing vote. A Director may at any time summon a meeting of the Directors.

(67.) The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

(68.) The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

(69.) A Committee may elect a Chairman of its meetings. If no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

(70.) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the Chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

Dividends.

(72.) The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared, may be forfeited by the Directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The Directors shall cause true accounts to be kept—

Of the stock in trade of the Company;

Of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

Of the credits and liabilities of the Company.

The books of account shall be kept at the registered Office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in General Meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the Directors; subsequent auditors shall be appointed by the Company in General Meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no Director or other Officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their Ordinary Meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the Directors; that of subsequent auditors shall be fixed by the Company in General Meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other Officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanations or information have or has been given by the Directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the Directors, at the Ordinary Meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register of Members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Dr. *Balance-sheet (a) of the* ——————— *Company made up to* ——————— 18 . *Cr.*

Capital and Liabilities.			Rs.	As.	Property and Assets.			Rs.	As.
I. Capital.		Showing:			III. Property held by the Company.		Showing:		
	1	The number of shares ...				7	Immoveable property. Distinguishing—		
	2	The amount paid per share ...					(a) Freehold land ...		
	3	If any arrears of calls, the nature of the arrear, and the names of the defaulters ...					(b) " Buildings ...		
							(c) Leasehold " ..		
	4	The particulars of any forfeited shares ...				8	Moveable property. Distinguishing—		
II. Debts and Liabilities of the Company.		Showing:					(d) Stock-in-trade ...		
	5	The amount of loans on mortagages or debenture bonds ...					(e) Plant ...		
	6	The amount of debts owing by the Company. Distinguishing— ...					The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss ...		
		(a) Debts for which acceptances have been given ...			IV. Debts owing to the Company.		Showing:		
		(b) Debts to tradesmen for supplies of stock-in-trade or other articles ...				9	Debts considered good for which the Company hold bills or other securities ...		
		(c) Debts for law expenses ...				10	Debts considered good for which the Company hold no security ...		
		(d) Debts for interest on debentures or other loans ...				11	Debts considered doubtful and bad ...		
		(e) Unclaimed dividends ...					Any debt due from a Director or other Officer of the Company to be separately stated ...		
		(f) Debts not enumerated above ...							
VI. Reserve Fund.		Showing:			V. Cash and Investments.		Showing:		
		The amount set aside from profits to meet contingencies ...				12	The nature of investment and rate of interest ...		
						13	The amount of cash, where lodged, and if bearing interest ...		
VII. Profit and Loss.		Showing:							
		The disposable balance for payment of dividends, &c. ...							
VIII. Contingent Liabilities.		Claims against the Company not acknowledged as debts ...							
		Monies for which the Company is contingently liable ...							

(a) See Clauses 81 and 82 of the foregoing Table A.

TABLE B.

TABLE OF FEES to be paid to the Registrar of Joint Stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of 40 rupees, with the following additional fees regulated according to the amount of nominal capital, (that is to say):—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 1,000,000 rupees ...	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 1,000,000 rupees	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees or part of 10,000 rupees as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of Joint Stock Com panies by a Company not having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the Articles of Association, does not exceed 20 ...	40	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100, with an additional Rs. 5 for every 50 members, or less number than 50 members after the first 100.			
For registration of a Company in which the number of members is stated in the Articles of Association to be unlimited, a fee of	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase ...	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			

	Rs.	A.	P.
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The capital of the Company is Rs.———, divided into——— shares of each.

The number of shares issued is———. Calls to the amount of ————Rs. per share have been made, under which the sum of Rs.——has been received.

The liabilities of the Company on the 1st day of January (or July) were :—

Debts owing to sundry persons by the Company :
Under decree, Rs.——
On specialty, Rs.———
On Notes or Bills, Rs. ——
On Simple Contracts, Rs.——
On estimated Liabilities, Rs.——

The Assets of the Company on that day were :—
Government Securities [stating them], Rs.——
Bills of Exchange and Promissory Notes, Rs.——
Cash at the Bankers, Rs.——
Other Securities, Rs.———

SECOND SCHEDULE.

FORM A.

Memorandum of association of a Company limited by shares.

1*st.*—The name of the Company is "The——Company, Limited."

2*nd.*—The registered Office of the Company will be situate in ——

3*rd.*—The objects for which the Company is established are, "and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th.*—The liability of the members is limited.

5*th.*—The capital of the Company is Rs.———, divided into——— ——shares of Rs.————each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names :

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. of ...	
3. E. F. of ...	
4. G. H. of ...	
5. I. J. of ...	
6. K. L. of ...	
7. M. N. of ...	
Total shares taken ...	

Dated the————————*day of*————————

Witness to the above signatures.

O. P. of————

FORM B.

Memorandum and Articles of Association of a Comany limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2*nd.*—The registered Office of the Company will be situate in Calcutta.

3*rd.*—The objects for which the Company is established are "the Mutual Insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4*th.*—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilites of the Company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of associations :

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated————————*day of*

Witness to the above signatures.

O. P. of————

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The Directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first General Meeting shall be held at such time not being more than three months after the incorporation of the Company, and at such place as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(7.) The Directors may whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an Extraordinary General Meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting: but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(11.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the Directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows: that is to say, if the members of the Company at the time of the meeting do not exceed ten in number, the quorun shall be five; if they exceed ten, there shall be added to the above quorun one for every five additional members up to fifty, and one for every ten additional members

after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die.*

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be Chairman of such meeting.

(16.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour or against such Resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs; and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a Corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

——————COMPANY, LIMITED.

I——————of——————,being a member of the——— Company, Limited, hereby appoint————of————as my proxy to vote for me and on my behalf at the [Ordinary *or* Extraordinary, *as the case may be*] General Meeting of the Company to be held on the ———day of————and at any adjournment thereof to be held on the ———day of————next [*or* at any meeting of the Company that may be held in the year——————].

As witness my hand, this————day of————
Signed by the said————in the presence of————.

Directors.

(25.) The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(26.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Elections of Directors.

(28.) The Directors shall be elected annually by the Company in General Meeting.

BUSINESS OF COMPANY.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the body of members.

(31.) Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

(32.) The Audit Committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The Audit Committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company. They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to such accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations of the Company, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanation or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read together with the report of the Directors at the Ordinary Meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by The Indian Companies' Act, 1866, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

1.	A. B. of	Merchant.
2.	C. D. of	"
3.	E. F. of	"
4.	G. H. of	"
5.	I. J. of	"
6.	K. L. of	"
7.	M. N. of	"

Dated the——*day of*————18—.

Witness to the above signatures,

O. P. of————

FORM C.

Memorandum and Articles of Association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The————Hotel Company, Limited."

2*nd.*—The registered Office of the Company will be situate in——

3*rd.*—The objects for which the Company is established are "the facilitating travelling in————by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4*th.*—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association:

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the——day of————18—.

Witness to the above signatures,

O. P. of————

Articles of Association to accompany preceding Memorandum of Association.

1.—The capital of the Company shall consist of five lakhs of rupees, divided into five thousand shares, of one hundred rupees each.

2.—The Directors may, with the sanction of the Company in General Meeting, reduce the amount of shares.

3.—The Directors may, with the sanction of the Company in General Meeting, cancel any shares belonging to the Company.

4.—All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names :

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken ————

Dated the——day of————18—.

Witness to the above signatures,

O. P. of————

Memorandum and Articles of Association of an Unlimited Company having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Patent———— Company."

2nd.—The registered Office of the Company will be situate in——

3rd.—The objects for which the Company is established are "the working of a patent method of————————, of which method O. P. of————————is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association:

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the——day of————————18—.

Witness to the above signatures,
Q. R. of————————

Articles of Association to accompany the preceding Memorandum of Association. Capital of the Company.

The capital of the Company is twenty thousand rupees, divided into twenty shares, of one thousand rupees each.

Application of Table A.

All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names:

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by Subscribers.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

————————

Dated——day of————————18—.

Witness to the above signatures,
Q. R. of————————

FORM. E. As required by the Second Part of the Act.

Summary of Capital and Shares of the——————————— Company made up to the———day of ——————————.
Nominal Capital Rs.————, divided into——————shares of Rs.————each.
Number of Shares taken up to the————day of————
There has been called up on each Share Rs.————
Total amount of calls received Rs.————
Total amount of calls unpaid Rs.————

List of persons holding shares in the——————Company on the————day of——————and of persons who have held Shares therein at any time during the year immediately preceding the said——————day of showing their names and addresses and an account of the Shares so held.

Folio in Register Ledger containing particulars.	Names, Addresses, and Occupations.				Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing members on the ——day of——	Additional Shares held by existing members during preceding years.		Shares held by persons no longer members.		
						Number.	Date of transfer.	Number.	Date of transfer.	

THIRD SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

ACT No. XII. OF 1866.

1. Interpretation Clause. Number. "Section." "Local Government." "Collector." "Officer."
2. Application to Canal Officer.
3. Canal Officer to make local enquiry. And either to reject application or cause survey, memorandum and plan to be made. Memorandum to be subscribed and recorded by Canal Officer.
4. Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.
5. Proclamation of contents of memorandum.
6. Petition to Collector against water-course. Procedure of Collector on receipt of petition.
7. Memorandum by Collector.
8. Copy of Collector's memorandum to be sent to Canal Officer.
9. Procedure thereon when Canal Officer and Collector agree that water-course should be formed.
10. When Canal Officer and Collector agree that the water-course should not be formed.
11. When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works.
12. Procedu e in case Collector and Canal Officer disagree.
13. Procedure where Collector is himself Canal Officer
14. Procedure after thirty days from the giving of notice under Section 5. Collecto to fix compensation.
15. Collector to require applicant to pay purchase-money.
16. Applicant may enter with workmen, &c.
17. Power to local Government to make rules.
18. Bar of suits for the compulsory takingp prior to this Act, of land for private water-courses. Procedure in such cases.
19. Present extent of Act. Act may be extended.

An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

Preamble.

Whereas it is expedient to provide for the compulsory taking of rights to form and maintain private water-courses through lands lying between public works of irrigation and the lands, mills, sewers, reservoirs or buildings of persons desiring water from such works for the purposes of irrigating, working, or cleansing such lands, mills, or sewers, or for bathing, drinking, manufacturing or other useful purposes; It is enacted as follows:

Interpretation Clause.
Number.
"Section."
"Local Government."
"Collector."
"Canal Officer."

I. In this Act, words in the singular include the plural, and words in the plural include the singular; "Section" means a Section of this Act; and in every place in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such place and includes a Chief Commissioner; "Collector" includes any Officer authorized to exercise the duties of a Collector of the land revenue of such place; and "Canal Officer" means the chief Officer invested by the local Government with the immediate control of the District defined by the local Government for the purposes of irrigation in which such place shall be situate.

Application to Canal Officer.

II. Whenever any person shall require the right to form and maintain, for any of the purposes aforesaid, a private water-course through the lands (hereinafter called the intervening lands) lying between a public work of irrigation and his own lands, mills, sewers, reservoirs or buildings, he shall apply in writing under his hand to the Canal Officer, stating—

(1.)—The particulars of the right so required;

(2.)—That the applicant is willing to pay a reasonable sum for the purchase, rent, or revenue thereof, to defray the expense of the survey, memoranda, and plans required by this Act, to make reasonable compensation for any injury that may be caused to the intervening lands and to the crops thereon by the formation of the proposed water-course, and to

construct and maintain such works connected therewith as may be necessary; and

(3.)—That he has endeavoured unsuccessfully to enter into an agreement with the owners, tenants, and occupiers of the intervning lands as to the amount of the purchase-money or rent and compensation aforesaid.

Stamp. Such application shall bear a stamp of eight annas.

Canal Officer to make local enquiry.

And either to reject application.

Or to cause survey, memorandum, and plan to be made.

III. On receiving such application, the Canal Officer shall visit the intervening lands and make enquiry as to the expediency of forming the proposed water-course. If he is not satisfied of such expediency, he shall reject the application. But if he is satisfied of such expediency, he shall cause to be made at the applicant's expense a survey of the intervening lands and a memorandum and plan showing the direction, length, width, and depth of the proposed water-course; the bridges, aqueducts, drains, or other works (if any) to be made in connection therewith, and the amount of land required therefor. Such memorandum shall also state that, in the opinion of the Canal Officer, the formation of the proposed water-course will be a benefit to the applicant, and will cause no disproportionate injury to the intervening lands, and it shall be subscribed by the Canal Officer and recorded in his Office.

Memorandum to be subscribed and recorded by Canal Officer.

Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.

IV. The Canal Officer shall forward the said plan, together with a copy under his hand of such memorandum, to the Collector, who shall furnish a copy under his hand of the memorandum to the Lumberdar or Sudder Malguzar of every village through which the proposed water-course is to pass.

Proclamation of contents of memorandum.

V. The Collector shall also cause the contents of the said memorandum to be proclaimed in every such village in the local vernacular language, and shall at the same time cause notice to be published in the same language in every such village that any person interested in the lands to be traversed by the proposed water-course, and objecting to its formation, shall be at liberty to apply to him within fifteen days from the date of such proclamation.

Petition to Collector against water-course.

Procedure of Collector on receipt of petition.

VI. Any such person may within the time hereinbefore limited present a petition to the Collector, stamped with a stamp of the value of eight annas, and setting forth his objections to the formation of the proposed water-course. The Collector may in his discretion either reject the petition, recording his reasons thereon, or make an enquiry, of which he shall give previous notice to the Canal Officer, as to the validity of the objections, and summon witnesses and require them to produce before him all such documents as he shall think fit. Persons so summoned shall be subject to the law for the time being in force as regards persons summoned before a Collector acting judicially.

Memorandum by Collector.

VII. If no objection shall have been made under the provisions of Section 6;

Or if the Collector shall think that the objections (if any) to the formation of the proposed water-course are insufficient and that such water-course should be formed;

Or if he shall think that such objections are sufficient, and that it should not be formed;

Or if he shall think that such objections exist, but that they may be obviated by the construction of bridges, aqueducts, drains, or other such works in addition to the works (if any) referred to in Section 3, and that the proposed water-course should be formed, proper provisions being made for the construction and maintenance of such additional works (mentioning them),

He shall make, subscribe, and record in his Office a memorandum to that effect.

Copy of Collector's memorandum to be sent to Canal Officer.

VIII. The Collector shall thereupon send the Canal Officer a copy under his hand of such memorandum.

Procedure thereon when Canal Officer and Collector agree that water-course should be formed.

IX. If the Canal Officer shall agree with the Collector that the water-course should be formed, and that no additional works connected therewith are needed, he shall proceed according to the provisions in such case contained in Section 14.

When Canal Officer and Collector agree that the water-course should not be formed.

X. If he shall agree with the Collector that the water-course should not be formed, he shall give notice thereof to the applicant, and all proceedings shall thereupon be stayed.

When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works.

XI. If the Canal Officer shall agree with the Collector that the water-course should be formed, proper provision being made for the construction and maintenance of the additional works mentioned in Section 7, he shall cause to be prepared at the expense of the applicant a memorandum and plan of the same works, and shall record such memorandum and plan in his Office, and shall forward to the Collector the plan and a copy of the memorandum.

Procedure in case Collector and Canal Officer disagree.

XII. If the Canal Officer disagree with the Collector's memorandum, under Section 7, he shall submit the copy thereof sent to him under Section 8, together with a statement of his own reasons for such disagreement, through the head of his own Department to the Commissioner of the Division. If the Commissioner agree with the Canal Officer, the Commissioner's decision on the points in dispute shall be final. If the Commissioner disagree with the Canal Officer, the whole case shall be referred to the final decision of the local Government.

Procedure where Collector is himself Canal Officer.

XIII. Where the Collector is himself the Canal Officer, he shall forward to the Commissioner of the Division all petitions presented under Section 6, who shall then proceed in the same manner, and with the same powers, as if he were a Collector acting under Section 6; and in every such case Sections 7, 8, 9, 10, and 11 shall be read as if for the word "Collector" the words "Commissioner of the Division" were substituted.

Procedure after thirty days from the giving of notice under Section 5.

XIV. At the expiration of thirty days from the giving of the notice mentioned in Section 5, if under the provisions hereinbefore contained it shall have been determined that the proposed water-course is to be formed, the Canal Officer shall enter upon the intervening lands and mark out the limits of the proposed water-course; and thereupon the Collector shall adjust the amount to be given as purchase-money, rent, and revenue or any of them for the right an das compensation for the injury respectively mentioned in

Collector to fix compensation.

Section 2. In making such adjustment the Collector shall follow the the procedure, and may exercise the powers prescribed for, and conferred upon him by Act VI. of 1857, Sections 4, 5, 6, and 7.

Collector to require applicant to pay purchase-money.

XV. The Collector shall then require the applicant to pay such amount (if any) as shall be payable at once, and, if the said Collector shall think fit, to deposit with him such security as he shall deem sufficient for the due payment of the rent and revenue (if any) aforesaid, and for the construction and maintenance of the works (if any) connected with the said water-course. And, on compliance with such requirement, the Collector shall authorize the applicant to take and enjoy the right aforesaid.

On payment applicant to be authorized to take right.

Applicant may enter with workmen, &c.

XVI. On receiving such authority from the Collector, it shall be lawful for the applicant, with such workmen, cattle, and things as may be necessary, to enter upon the intervening lands and make the proposed water-course within the limits so marked out as aforesaid, and either to remove all or any of the clay, sand, gravel, and stones which shall be taken out of the said water-course, or to use all or any parts thereof in making the said water-course and the works connected therewith, and to use such water-course for the purpose of conveying water from the said public works of irrigation in the direction of and into his lands, mills, sewers, reservoirs, or buildings, as the case may be, at the place indicated in the plan mentioned in Section 3; and from time to time, with such workmen, cattle, and things as aforesaid, to enter upon the said intervening lands and inspect, repair, and cleanse the said water-course, and from time to time for the purposes aforesaid to place upon the same lands and to remove such materials, machinery, and other things as he shall think fit.

Power to local Government to make Rules.

XVII. It shall be lawful for the local Government from time to time to prescribe Rules, consistent with the provisions of this Act, upon all or any of the subjects next hereinafter mentioned, (that is to say):—

(1.)—The formation of the water-course and the works (if any) connected therewith, in a proper and workman-like manner:

(2.)—The removal of the clay, sand, gravel, and stones excavated in the formation of the water-course, and not used as aforesaid:

(3.)—The time for the completion of the water-course and the works (if any) connected therewith.

(4.)—The cleansing of the water-course and the maintenance and repair of the water-course and works (if any) connected therewith:

(5.)—The avoidance of unnecessary damage to the surface of the adjoining lands and the crops for the time being thereon, and the compensation for such damage (if any):

(6.)—The prevention of injury to the water-course and of interference with the flow of water through the same:

(7.)—The making good of such injury and the restoration of the flow of water:

(8.)—The adjustment of the rights in the water-course of the persons for whose benefit it is formed or to whose benefit it may afterwards be extended:

(9.)—In case the water-course be discontinued, the conditions on which the owner of the intervening lands may enter upon the ground within its limits, and the conditions on which the persons mentioned in

paragraph (8) of this Section may be discharged from the further payment of rent or revenue in respect of the water-course.

Such Rules, when they shall have received the sanction of the Governor-General of India in Council, and when they shall have been published in the Official Gazette, shall be read with, and taken as part of, this Act.

Bar of suits for the compulsory taking prior to this Act, of land for private water-courses.

XVIII. No suit shall lie in respect of the compulsory taking, prior to the passing of this Act, of any land for the formation of a private water-course for any of the purposes mentioned in the preamble to tihs Act. But in every such case it shall be lawful for the Collector within one year from the passing or extension of this Act, on the application of the person for whom the land was so taken, his representatives or assigns, to adjust, in manner hereinbefore referred to, the amount to be given as purchase-money, rent, for revenue or the said land; and, on failure, within thirty days after such adjustment shall have been notified to the person who shall have taken such land, his representatives or assigns, to pay the said purchase-money, or to give security to the satisfaction of the Collector for the due payment of the said rent or revenue, the Collector may re-place the person from whom the land was so taken, his representatives or assigns, in possession of the land aforesaid. The Collector may also award to him or them such compensation as the Collector shall think fit for the injury (if any) done to such land by the formation of the water-course, and the amount of such compensation may be recovered in such manner as the local Government shall provide.

Procedure in such cases.

Present extent of Act.

* XIX. This Act applies to the Territories respectively under the Governments of the Lieutenant Governer of the North-Western Provinces and the Lieutenant-Governor of the Punjab. But it may be extended, *mutatis mutandis*, to any other part of British India by an order of the local Government notified in the Official Gazette; and from the date of any such extension, so much of any Act, Regulation, or Rule having the force of law, which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with this Act or with any Rule prescribed by such Government pursuant to Section 17, shall cease to have effect in such Territories.

Act may be extended.

ACT NO. XIII. OF 1866.

1. Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February, 1844.
2. Bar of redemption-suits when mortgage executed before 13th February, 1844. Certain redemption-suit may be revived when the mortgage was executed on or after 13th February, 1844.
3. This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February, 1856.
4. This Act to be read with Act XVI, of 1865.

An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

Preamble.

Whereas it is expedient to exempt certain suits in Oude relating to land from the operation of the rules of limitation in force in that Province; It is enacted as follows:

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* Extended to the Province of Oudh. See *Gazette of India*, 3rd August, 1867, No. 1289, p. 1116.

Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February, 1844.

I. No suit relating to any tenure which under the provisions of Act XVI. of 1865, shall be solely cognizable in the Courts of Revenue in the said Province, shall be barred under the rules of limitation in force in such Courts if the cause of suit shall have arisen on or after the 13th day of February, 1844. And any suit or appeal relating to any tenure and cognizable as aforesaid, which may have been rejected or dismissed upon the ground that the suit was barred under the said rules, may be revived and heard on the merits, if the cause of suit shall have arisen on or after such day.

Bar of redemption-suits when mortgage executed before 13th February, 1844.

II. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit in any Civil Court or any Revenue Court in the said Province to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding: Provided that any suit for the redemption of land, which may have been rejected or dismissed upon the ground that the suit was barred under some rule of limitation in force, or supposed to be in force, in the said Province, may be revived and heard as aforesaid, if the mortgage shall have been executed on or after the said day.

Certain redemption-suits may be revived when the mortgage was executed on or after 13th February, 1844.

This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February, 1856.

III. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the 13th day of February, 1856: Provided that if any such term had expired before that day the suit shall be barred, whatever may have been the date on which the instrument was executed.

This Act to be read with Act XVI. of 1865.

IV. This Act shall be read with, and taken as part of, the said Act XVI. of 1865.

THE INDIAN POST OFFICE ACT, 1866.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

	Section.
Commencement of Act. Short Title	1
Interpretation Clause	2
Repeal of Act XVII. of 1854	3
References to Act XVII. of 1854 to be read as made to this Act	4
Exclusive privilege of carrying letters vested in the Government of India	5
Persons expressly forbidden to collect, carry, or deliver letters...	6
Appointment of Officers for service of Post Office	7

PART II.

Postage Rates.

	Section.
Postage rates on letters	8
Postage rates on newspapers	9
Newspapers how to be sent by Letter-Post	10
Newspapers when charged with letter-postage	11
Proof-sheets	12
Postage rates on books, packets of newspapers, &c. ...	13
Inland banghy-postage	14
Table of distances for calculation of banghy-postage ...	15
Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post. Effect of false certificate ...	16
Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post unless directed to be sent by Banghy or Book-packet Post	17
Ship postage on parcels	18
Governor-General in Council may direct pre-payment of postage in all cases...	19
Governor-General in Council may alter the rates of postage ...	20
Governor-General in Council may fix rates of steam postage ...	21
Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea	22
Governor-General in Council may fix Express postage rates ...	23
Re-directed letters	24

PART III.

Registered Letters.

Letters may be registered	25
Governor-General in Council may declare in what cases registration shall be compulsory	26

PART IV.

Re-delivered, Unpaid, Unclaimed, and Refused Letters.

Re-delivery of letters and other articles once put into Post Office	27
Postage on unpaid letters, &c.	28
Unclaimed letters how to be dealt with	29
Unclaimed letters when sent to Post Master General's Office to be opened.	
And returned in Dead Letter covers to senders.	
Money &c., found therein, how disposed of.	
Refused letters to be returned to Posting Office	30

PART V.

Mails on board Inward and Outward bound Vessels.

Commanders of inward-bound vessels carrying in Mails how to proceed on arrival	31
Penalty.	
Detention of letters on board inward-bound vessel	32
Bounty-money	33
Commanders of outward-bound vessels to receive Mails on board	34

PART VI.

Postage Stamps.

Stamped letters to be considered as pre-paid	35
Postage stamps to be provided by Government	36
Postage stamps to be under management of Officer appointed by Government...	37
Rules for guidance of vendors of Postage stamps	38

Section.

Penalty for breach of such rules 39
Penalty for refusing to supply stamps 40
Penalty for selling stamps for higher price than the value denoted thereby 41

PART VII.

Offences against the Post Office.

Penalty for sending dangerous substance by Post 42
Penalty for making false certificate in order to defraud the Post Office 43
Penalty for detaining Mails or opening Mail-bags 44
Penalty for retaining letters, &c., delivered by mistake ... 45
Penalty for conveying letter in breach of privilege ... 46
Penalty for performing, otherwise than by the Post, any services incidental to conveying letters ... ...
Penalty for making clubbed packet or tendering or delivering letter to be sent therein ... ...
Penalty for sending letter in breach of privilege, or delivering letter to be so sent ... ...
Penalty for collecting excepted letters to send them otherwise than by Post ... .
Penalty for breach of provision of Section 6 ... ...
Penalty for practice of acts mentioned in this Section ...
Penalty for neglect on the part of persons employed to carry Mails 47
Penalty for stealing, &c., or opening letters, &c, by persons employed in the Post Office 48
Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office 49
Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office 50
Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office ... 51
Penalty for abetting or concealing offences under this Act ... 52
Any person charged with offence punishable with fine only may be summarily convicted 53
Conviction to be quashed on merits only. Form of conviction... 54
Magistrate may refer charge to his Assistant 55
Fines how levied 56
Imprisonment if no sufficient distress, &c.
Share of fine to informer 57
No proceedings for recovery of fines to be taken without an order 58
Post Office servants committing offences in allied States ... 59
Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with ... 60
Property sent by the Post to be laid in the Post Master General 61

PART VIII.

Miscellaneous.

Letters on Her Majesty's service, duly certified as such, how to be charged 62
Governor-General in Council may frame rules 63
District dâks 64
Government not responsible for loss 65

ACT No. XIV. OF 1866.*

1. Short Title.
2. Interpretation Clause. "Criminal Court." "Fine." "Clubbed Packet." "Newspaper." "Mail." "British India."
3. Repealed.
4. References to Act XVII. of 1854 to be read as made to this Act.
5. Exclusive privilege of carrying letters vested in the Government of India.
6. Persons expressly forbidden to collect, carry, or deliver letters.
7. Appointment of Officers for service of Post Office.
8. Postage rates on letters.
9. Postage rates on newspapers.
10. Newspapers how to be sent by Letter-Post.
11. Newspapers when charged with letter postage.
12. Proof-sheets.
13. Postage rates on books, packets of newspapers, &c.
14. Inland banghy-postage.
15. Table of distances for calculation of banghy-postage.
16. Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post. Effect of false certificate.
17. Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post unless directed to be sent by Banghy or Book-packet Post.
18. Ship postage on parcels.
19. Governor-General in Council may direct pre-payment of postage in all cases.
20. Governor-General in Council may alter the rates of postage.
21. Governor-General in Council may fix rates of steam postage.
22. Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.
23. Governor-General in Council may fix Express postage rates.
24. Re directed letters.
25. Letters may be registered.
26. Governor-General in Council may declare in what cases registration shall be compulsory.
27. Re-delivery of letters and other articles once put into Post Office.
28. Postage on unpaid letters, &c.
29. Unclaimed letters how to be dealt with. Unclaimed letters when sent to Post Master General's Office to be opened, and returned in Dead Letter covers to senders. Money, &c., found therein how disposed of.
30. Refused letters to be returned to Posting Office.
31. Commanders of inward-bound vessels carrying Mails how to proceed on arrival. Penalty.
32. Detention of letters on board inward-bound vessel.
33. Bounty-Money.
34. Commanders of outward bound vessels to receive Mails on board.
35. Stamped letters to be considered as pre-paid.
36. Postage stamps to be provided by Government.
37. Postage stamps to be under management of Officer appointed by Government.
38. Rules for guidance of vendors of postage stamps.
39. Penalty for breach of such rules.
40. Penalty for refusing to supply stamps.
41. Penalty for selling stamps for higher price than the value denoted thereby.
42. Penalty for sending dangerous substance by Post.
43. Penalty for making false certificate in order to defraud the Post Office.
44. Penalty for detaining Mails or opening Mail-bags.
45. Penalty for retaining letters, &c, delivered by mistake.
46. Penalty for conveying letters, in breach of privilege. Penalty for performing, otherwise than by the Post, any services incidental to conveying letters. Penalty for making clubbed packet, or tendering or delivering letter to be so sent therein. Penalty for sending letter in breach of privilege, or delivery letter to be so sent. Penalty for collecting excepted letters to send them otherwise than by Post. Penalty for breach of provisions of Section 6. Penalty for practice of Acts mentioned in this Section.
47 Penalty for neglect on the part of persons employed to carry Mails.
48. Penalty for stealing, &c., or opening letters, &c, by persons employed in the Post Office.
49. Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.
50. Penalty for preparing incorrectly, or altering or secreting documents by persons employed in the Post Office.
51. Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.
52. Penalty for abetting or concealing offences under this Act.
53. Any person charged with offence punishable with fine only may be summarily convicted.
54. Conviction to be quashed on merits only. Form of conviction.
55. Magistrate may refer charge to his Assistant.
56. Fines how levied. Imprisonment if no sufficient distress, &c.
57. Share of fine to informer.
58. No proceedings for recovery of fines to be taken without an order.
59. Post Office servants committing offences in allied States.
60. Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.
61. Property sent by the Post to be laid in the Post Master General.
62. Letters on Her Majesty's service, duly certified as such, how to be charged.
63. Governor-General in Council may frame rules.
64. District dâks.
65. Government not responsible for loss.

An Act to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

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* See *Gazette of India*, 27th March, 1869, G. O. No. 1847, for the revised rules for the delivery of letters, &c., to the holders of delivery tickets.

For the rules for the treatment of official correspondence under this Act, see *Gazette of India*, 27th March, 1869, p. 807, G. O. No. 1891, A.

Preamble.

Whereas it is expedient to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office; It is enacted as follows:

PART I.

Preliminary.

Short Title.

I. This Act may be cited as "The Indian Post Office Act, 1866."

Interpretation Clause.
"Criminal Court."
"Fine."
"Clubbed Packet."
"Newspaper."
"Mail."
"British India."

II. In this Act, unless there be something repugnant in the subject or context, "Criminal Court" includes every Judge, Magistrate, Justice of the Peace, or Police Magistrate lawfully exercising jurisdiction in criminal cases: "Fine" includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance: "Clubbed Packet" shall be taken to mean a packet containing a collection of letters, not made by an agent of the Post Office, transmitted through the Post Office with the view of the enclosed letters being delivered to more than one person through the agent of the person by whom the packet was made up: "Newspaper" shall include any periodical publication, published at regular intervals not exceeding thirty-one days: "Mails" shall include any letter, parcel, or other article conveyed under the provisions of this Act, as well as any box, bag, or other article, or any carriage, horse, messenger, or other person employed or used by the Post Office for the conveyance or safe custody of the Mails; and "British India" includes the territories which are now or shall be vested in Her Majesty or Her successors by the Statute 21 and 22 Vic.t, chap. 106. (An Act for the better Government of India).

III. *Repealed by the Repealing Act XIV.*, 1870.

References to Act XVII. of 1854 to be read as made to this Act.

IV. References to any Section of Act XVII. of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding Section of this Act.

Exclusive privilege of carrying letters vested in the Government of India.

V. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by Post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching, and delivering all letters, except in the following cases, that is to say:—

(1.)—Letters sent by a private friend in his way, journey, or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward, or other profit or advantage for receiving, carrying, or delivering the same:

(2.) Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose:

(3.) Letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward, or other profit or advantage for receiving, carrying, or delivering, such letters. But nothing herein con-

tained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

Persons expressly forbidden to collect, carry or deliver letters.

VI. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender, or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say :—

(1.)—Common carriers of passengers or goods, and their drivers, servants, or agents, except letters solely concerning goods in their carriages :

(2.)—Owners and commanders of ships, steam-boats, or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

Appointment of Officers for service of Post Office.

VII. For carrying on the service of the Post Office, it shall be lawful for the Governor-General of India in Council to appoint, or to authorize the appointment of, such Officers, with such official styles or designations, and to invest them with, and delegate to them, such powers not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may, from time to time, deem expedient.

PART II.

Postage Rates.

Postage rates on letters.

VIII. Wheresoever posts or postal communications are or shall be established by the Government of India, postage if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the Letter-Post by land, according to the following scale :—

On every letter not exceeding a quarter of a tolah in weight,—six pie :

On every letter exceeding a quarter of a tolah and not exceeding half a tolah in weight,—one anna :

On every letter exceeding half a tolah and not exceeding one tolah in weight,—two annas :

And for every half tolah in weight above one tolah, one additional anna ; and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every article transmitted by the Letter-Post shall be deemed a letter within the meaning of this Section, unless it be an article on which a different rate of postage shall be chargeable in this Act.

Postage rates on news papers.

IX. Wheresoever posts or postal communications are or shall be established by the Government of India, postage on newspapers, transmitted by the Letter-Post by land, shall be charged by weight according to the following scale :—

On every newspaper not exceeding ten tolahs in weight,—one anna :

On every newspaper exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any persons to send any newspaper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

Newspapers how to be sent by Letter-Post.

X. A newspaper shall not be sent by the Letter-Post at the rates prescribed in the last preceding Section, unless the following conditions be observed, that is to say :—

(1.)—It shall be without a cover, or in a short cover open at both ends.

(2.)—There shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender.

(3.)—There shall be no paper or thing enclosed in or with any such newspaper.

Newspapers when charged with letter-postage.

XI. Any newspaper sent by the Letter-Post in respect of which the above conditions shall not be observed shall, together with anything enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof-sheets.

XII. Proof-sheets marked as such may be sent by the Letter-Post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender; otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Postage rates on books, packets of newspapers, &c.

XIII. Subject to such rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers and other articles, provided the postage thereon be pre-paid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates* of postage without reference to the distance to which they may be carried:—

If not exceeding ten tolahs in weight,—one anna :

If exceeding ten tolahs and not exceeding twenty tolahs in weight, —two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy-parcels in Section 14 of this Act.

Inland banghy-postage.

XIV. Inland postage shall be charged by weght and distance, on parcels sent by the Banghy-Post, according to the following scale :—

* These rates have been changed, and revised rules and conditions for transmission of packets prescribed by G. O. No. 1382. See *Gazette of India*, 19th June, 1869, p. 62.

For Distances.		If not exceeding in weight															
		20 Tolahs.		50 Tolahs.		100 Tolahs.		200 Tolahs.		300 Tolahs.		400 Tolahs.		500 Tolahs.		600 Tolahs.	
	Miles.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.
Not exceeding	300	0	4	0	8	0	12	1	8	2	4	3	0	3	12	4	8
Not exceeding	600	0	8	1	0	1	8	3	0	4	8	6	0	7	8	9	0
Not exceeding	900	0	12	1	8	2	4	4	8	6	12	9	0	11	4	13	8
Not exceeding	1,200	1	0	2	0	3	0	6	0	9	0	12	0	15	0	18	0
Exceeding	1,200	1	4	2	8	3	12	7	8	11	4	15	0	18	12	22	8

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding 50 Rupees.

Table of distances for calculation of banghy-postage.

* XV. Banghy-postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such Table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council. And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to Post Offices not entered in such Table shall, for the purposes of this Act, be regarded as represented by the distances shown in the Table from or to the Post Offices nearest to them respectively. Each Post Master General shall prepare from the aforesaid Table, in the English and vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India, arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post.

XVI. Where there is no Banghy-Post established on any line of road, parcels, books, and other articles shall be received and transmitted by the Letter-Post, and shall be charged with postage according to the scale in Section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet, or other article, under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any Section of this Act.

Effect of false certificate.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet, or other article shall be charged with letter-postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post, unless directed to be sent by Banghy or Book-packet Post.

XVII. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by Letter-post, and be charged with letter-postage, unless specially directed to be sent by Banghy or Book-packet Post.

Ship postage on parcels.

XVIII. On all parcels chargeable under Section 14 of this Act with banghy-postage according to distance when conveyed by land, ship postage shall be charged when they are conveyed by means of Her Majesty's Indian Post by sea, according to the following scale, that is to say :—

On every parcel not exceeding twenty tolahs in weight,—two annas :

On every parcel exceeding twenty tolahs but not exceeding forty tolahs in weight,—four annas :

On every parcel exceeding forty tolahs but not exceeding one hundred tolahs in weight,— eight annas :

And for every hundred tolahs in weight above one hundred tolahs, —eight additional annas. Every fraction of one hundred tolahs above

* The rates of postage chargeable on Banghy parcels under Sections 14 and 18 of this Act have been superseded by another scale.—See *Gazette of India*, 19th June, 1869, G. O. No. 1381, p. 61.

one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by Her Majesty's Indian Post, partly by land and partly by sea, ship postage shall be charged in addition to inland banghy-postage.

Governor-General in Council may direct pre-payment of postage in all cases.

* XIX. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by Post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps; or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Governor-General in Council may alter the rates of postage.

† XX. It shall be lawful for the Governor-General of India in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in Sections 8 and 9 of this Act.

Governor-General in Council may fix rates of steam postage.

‡ XXI. It shall be lawful for the Governor-General of India in Council from time to time to direct that postage duties, different from the rates authorized by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the Post from or to any part of Great Britain, or any British colony, or any Foreign country to or from any places in British India. The postage charged on any letter or other article specified in any order of Council made under this Section, whether under the name of steam postage or any other denomination, shall, after the rates of such postage have been published in the Official Gazette of any Presidency, be recovered in the same manner as postage under this Act.

Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.

XXII. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by Post, by sea, or partly by sea and partly by land, from one part or place in India to another. It shall not be necessary that such rates be uniform; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

Governor-General in Council may fix Express postage rates.

XXIII. It shall be lawful for the Governor-General of India in Council from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by Express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

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* The postage chargeable under Section 13 on inland packets containing patterns of merchandize or articles other than books, have been doubled.—See *Gazette of India*, 19th June, 1869, p. 62, G. O. No. 1382.

† Rule 5 of the Rules notified under date 17th July, 1866, was futher modified by Order No. 3415.—See *Gazette of India*, 26th October, 1867, p. 1461.

‡ For the postage rates chargeable in India on correspondence to or from Countries or Ports in Asia, see G. O. No. 2868, in *Gazette of India*, 10th October, 1868, p. 1505, and Schedule.

Re-directed letters.

XXIV. On every letter or other article which shall be re-directed at any Post Office, or forwarded by Post from any place to which it shall have been conveyed by Post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

PART III.

Registered Letters.

Letters may be registered.

XXV. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Governor-General in Council may declare in what cases registration shall be compulsory.

XXVI. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

PART IV.

Re-delivered, Unpaid, Unclaimed, and Refused Letters.

Re-delivery of letters and other articles once put into Post Office.

XXVII. No person having delivered into any Post, Office any letter or other article shall be entitled to recall the same; but nothing in this Section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations, if any, as the Governor-General of India in Council may from time to time prescribe in that behalf.

Postage on unpaid letters, &c.

XXVIII. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post Master General, or by any Officer in charge of a Post Office by order of a Post Master General, in the same manner as a fine may be recovered under this Act; and it

shall be lawful for the Officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on Her Hajesty's Service: Provided, always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the Delivery Office may remit the postage.

Unclaimed letters how to be dealt with.

XXIX. *Clause* 1.—A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every Post Office, and exposed for not less than two weeks in the most conspicuous part of such Office; and all such letters and other articles which shall have remained three weeks unclaimed in any Office shall, if the sender's name and address are written on the cover, be returned to the Posting Office to be delivered to the sender free of all charge. All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened, shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the Office of the Post Master General of the Presidency.

Unclaimed letters when sent to Post Master General's Office to be opened;

And returned in Dead Letter covers to senders.

Clause 2.—The Post Master General or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters or other articles, and if the addresses of the senders can be discovered, shall enclose them in Dead Letter covers, and return them to the senders. All letters and other articles of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the Office of the Post Master General for one year, be destroyed.

Money, &c., found therein how disposed of.

Clause 3.—All money found in any unclaimed letter or other article shall be paid into the Public Treasury; and all other valuable property found as above shall be sold by the Post Master General of the Presidency or by some one duly authorized by him for that purpose; and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Refused letters to be returned to Posting Office.

XXX. Every letter or other article rejected unopened by the person to whom it is addressed, shall, if any postage is due thereon and if the sender's name and address are written on the cover, be returned to the Posting Office, in order that the postage due may be recovered from the sender; in all other cases, or when the sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the Office of the Post Master General of the Presidency, who shall open the letter or other article and take measures to recover the postage from the sender, or shall at his discretion destroy the letter or other article; and all money or other valuable property which such letter or other article may contain, shall be disposed of in the manner prescribed in the preceding Section with respect to such money or property contained in unclaimed letters.

PART V.

Mails on board Inward and Outward-bound Vessels.

Commanders of inward-bound vessels carrying Mails how to proceed on arrival.

XXXI. When any vessel arrives by sea at any place within British India at which there is a Post Office, the Commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel, which is directed to that place and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter, mail-bag, box, or packet, directed to any other place and not excepted from the exclusive privilege aforesaid, the said Commander shall as speedily as possible report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such Commander from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding 1,000 Rupees.

Penalty.

Detention of letters on board inward-bound vessel.

XXXII. Every person being either the Commander of a vessel inward-bound or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding 50 Rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding 100 Rupees.

Bounty-money.

XXXIII. For every letter delivered by the Commander of any ship in conformity with the directions of Section 31 of this Act, the Officer in charge of the Post Office shall pay to the said Commander the sum of one anna, and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act: Provided that no payment shall be made to the Commander of any vessel on account of the delivery of any letter, unless the claim of such Commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel: Provided, also, that nothing contained in Section 31 and the former part of this Section of this Act, shall extend to any letter or mail-bag, or box, or packet conveyed by any mail ship or mail steamer recognized as such by the Governor-General of India in Council.

Commanders of outward-bound vessels to receive Mails on board.

XXXIV. The Commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any Officer of the Post Office, and shall give a receipt for such letter or packet; and every Commander

of a vessel who shall wilfully disobey any direction contained in this Section, shall be punished with a fine not exceeding 1,000 Rupees.

PART VI.

Postage Stamps.

Stamped letters to be considered as pre-paid.

XXXV. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act), shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

Postage stamps to be provided by Government.

*XXXVI. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Postage stamps to be under management of Officer appointed by Government.

XXXVII. Postage stamps, provided as aforesaid, shall be under the care and management of such Officer or Officers as the Governor-General of India in Council shall from time to time direct: postage stamps shall be considered as stamps issued by Government for the purpose of Revenue, within the meaning of the Indian Penal Code; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the Post Office.

Rules for guidance of vendors of postage stamps.

XXXVIII. The Governor-General of India in Council may from time to time make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors; and whether any and what remuneration or discount shall be allowed to them; and how and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

Penalty for breach of such rules.

XXXIX. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be punished with a fine not exceeding 200 Rupees in addition to any other proceedings to which they may be liable.

Penalty for refusing to supply stamps.

XL. Any Government vendor of postage stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp vendor having in his possession for sale sufficient stamps of the description and value required), shall be punished with a fine not exceeding 100 Rupees.

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* Postage stamps impressed on envelopes and note paper are, by G. O. No. 1675, not to be recognized when cut or otherwise detached from such envelopes or paper.—See *Gazette of India*, 20th March, 1869, p. 668.

Penalty for selling stamps for higher price than the value denoted thereby.

XLI. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding 100 Rupees; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court, in the same manner as any penalty under this Act.

PART VII.

Offences against the Post Office.

Penalty for sending dangerous substance by Post.

XLII. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the Post, any letter, parcel, or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding 200 Rupees.

Penalty for making false certificate in order to defraud the Post Office.

XLIII. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify by writing on any official or other letters or packet delivered at any Post Office for conveyance by Post, that which is not true in respect of such letter or packet or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by Post any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by Post, under colour or pretence of an official communication, any letter, paper, writing, or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding 500 Rupees.

Penalty for detaining Mails or opening Mail-bags.

XLIV. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the Mails, or to detain any carriage or horse upon which the Mails are being carried, or on any pretence to open a packet or Mail-bag or box in transit from one Post Office to another; and every person who shall be guilty of any of the offences mentioned in this Section, shall be punished with a fine not exceeding 500 Rupees.

Penalty for retaining letters, &c., delivered by mistake.

XLV. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a Post letter or other article which ought to have been delivered to any other person, or a Mail-bag, box, or packet containing a letter or other article which shall have been sent by the Post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

XLVI. *Clause* 1.—Every person who shall convey, otherwise than by the Post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act, shall, for every letter so conveyed, forfeit a sum not exceeding 50 Rupees.

Penalty for conveying letter in breach of privilege.

Clause. 2.—Every person who shall perform, otherwise than by the Post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering, or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding 50 Rupees.

Penalty for performing, otherwise than by the Post, any services incidental to conveying letters.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the Post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding 50 Rupees.

Penalty for making clubbed packet, or tendering or delivering letter to be sent therein.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the Post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the Post, shall forfeit for every such letter a sum not exceeding 50 Rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the Post, shall forfeit for every such letter a sum not exceeding 50 Rupees.

Penalty for collecting excepted letters to send them otherwise than by Post.

Clause 6.—Every person who shall carry, receive, tender, or deliver a letter, or collect letters contrary to the provisions of Section 6 of this Act, shall forfeit for every such letter a sum not exceeding 50 Rupees.

Penalty for breach of provisions of Section 6.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this Section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding 500 Rupees.

Penalty for practice of acts mentioned in this Section.

XLVII. Every person employed to convey or deliver any mail-bag or box, or any letter or other article sent by Post, who shall be guilty, while so employed, of drunkenness, carelessness, or other misconduct, whereby the safety of any such bag, box, letter, or other article shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter, or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter, or other article, shall be liable to a fine not exceeding 50 Rupees; and any person employed to deliver a letter or other article sent by the Post, who shall not duly deliver the same, shall, within a reasonable time, not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding 50 Rupees.

Penalty for neglect on the part of persons employed to carry Mails.

Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.

* XLVIII. Whoever, being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy, or throw away any letter or other article sent by Post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail-bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

XLIX. Whoever, being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove, or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article any stamp which shall have been removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

L. Whoever, being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

LI. Whoever, being in such employ as last aforesaid, shall send by the Post, or put into any mail-bag or box, any unstamped letter or other article upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for abetting or concealing offences under this Act.

LII. Whoever abets, within the meaning of the Indian Penal Code, or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

* A conviction and sentence recorded by a Magistrate with full powers under Section 50 of the Post Office Act No. XVII., 1854, since repealed, but corresponding substantially with this Section, was set aside, as the Magistrate had no jurisdiction finally to dispose of the case, it not being punishable by fine only under Section 58 of the repealed Act corresponding with Section 53 of this Act.—Reg. *v.* Atmaran Wamen and Bhandarkar, 3, B. R., C. C., p. 8.

Any person charged with offence punishable with fine only may be summarily convicted.

LIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Conviction to be quashed on merits only.

LIV. No conviction, order, or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order, or judgment, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment, shall be aided by what so appears in such depositions.

Form of conviction.

Magistrate may refer charge to his Assistant.

LV. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to Criminal cases deputed to such Assistants or Magistrates acting judicially.

Fines—how levied.

LVI. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers. In case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take security by way of recognizance or otherwise. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Officer, for any term not exceeding two calender months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four calendar months where the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

Share of fine to informer.

LVII. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the informer.

No proceedings for recovery of fines to be taken without an order.

LVIII. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other Officer specially invested with the powers of a Post Master General.

Post Office servants committing offences in allied States.

LIX. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed, appointed, or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within British India, and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent Officer in any part of British India, in the same manner as if the offence had been committed in such part.

Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

LX. If any Officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his Office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention of the provisions of Section 14, 16, or 43 of this Act, it shall be lawful for such Officer to summon the person to whom the letter or other article is directed, to attend at the Post Office, by himself or agent, within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person: Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed. Provided, also, that in all cases the opened letter or other article shall be subsequently delivered to the persons to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a Custom House Pass.

Property sent by the Post to be laid in the Post Master General.

LXI. Whenever an offence shall be committed in respect of any mail-bag or box, or any letter or other article sent by the Post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of

such mail-bag, box, letter, or other article in the Post Master General of the Presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail-bag, box, letter, or other article was of any value; and in any charge to be preferred against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence without stating further the nature or particulars of his employment.

PART VIII.

Miscellaneous.

Letters on Her Majesty's service, duly certified as such, how to be charged.

LXII. Letters and other articles on Her Majesty's service, certified to be such by the signature of any public Officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the Post, and the postage due thereon shall be charged to or recovered from the several public Departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

Governor-General in Council may frame rules.

* LXIII. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions, and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed, and delivered.

District dâks.

LXIV. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zemíndárí, tháná, or other district dâks, and to declare from time to time what portions of this Act shall be applicable to such dâks, and to persons employed in connection therewith.

Government not responsible for loss.

LXV. The Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously, or fraudulently.

ACT No. XV. OF 1866.

1. Lender not a partner by advancing money for share of profits.
2. Remuneration of agents, &c., by profits not to make them partners.
3. Certain annuitants not to be deemed partners.
4. Receipt of profits, &c., not to make the seller a partner.
5. Interpretation of "person."

An Act to amend the Law of Partnership in India.

Preamble.

Whereas it is expedient to amend the Law relating to Partnership; It is enacted as follows:

I. The advance of money by way of loan to a person engaged or

* Under the provisions of this Section, the transmission of Opium by Post, except on account of Government, is prohibited by G. O. No. 3526.—See *Gazette of India*, 17th September, 1869, p. 287.

Lender not a partner by advancing money for share of profits.

about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person or the persons carrying on such trade or undertaking, or render him responsible as such.

Explanation.—A person who being entitled, whether as a retiring partner or otherwise, to demand and receive present payment of the value of any share or interest of or in the capital or other funds of a business, shall, after the value thereof shall have been ascertained between such person and the person or persons liable to pay the same, agree in writing to allow the same to remain therein or to be used by such person or persons for the purposes of such business, shall be construed to make an advance of money by way of loan within the meaning of this Section.

Remuneration of agents, &c., by profits not to make them partners.

II. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Certain annuitants not to be deemed partners.

III. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of, or to be subject to, any liabilities incurred by such trader.

Receipt of profits, &c., not to make the seller a partner.

IV. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

Interpretation of "person."

V. In the construction of this Act, the word "person" shall include a Partnership Firm, a Joint Stock Company, and a Corporation.

Act No. XVI. of 1866.

An Act to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 *and* 44 *of the High Courts' Criminal Procedure Amendment Act,* 1865.

Preamble.

Whereas it is expedient to relieve the Governor-General of India in Council from the duty of signing the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865;" It is enacted as follows:

Seal to be made.

I. A Seal shall be made at the expense of the Government of India with this inscription, "The Seal of the Governor-General of India in Council," and shall be kept in the custody of such person as the Governor-General of India in Council shall from time to time appoint in that behalf, and the Commissions respectively mentioned in Sections 22 and 44 of "The High

Courts' Criminal Procedure Amendment Act, 1865," may be stamped with such Seal by such person as the Governor-General of India in Council shall from time to time appoint in that behalf; and when so stamped shall be equally valid and effectual as if they had been signed by the Governor-General of India and the Members of his Council.

Stamping of commissions under Act XIII. of 1865, Sections 22 and 44.

ACT No. XVII. OF 1866.

1. Building to be erected for Indian Museum.
2. Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.
3. Trustees of the Indian Museum incorporated.
4. Trustees empowered to receive bequests, donations, and subscriptions.
5. Ex-officio Members. Provision in case of two offices being held by one person.
6. Power to appoint new trustees.
7. Quorum.
8. Power to Trustees to make, alter, and repeal bye-laws, and to appoint officers and servants.
9. Trustees may exchange or sell duplicates.
10. Trustees shall furnish annual reports and accounts.
11. Asiatic Society to remove their collections to the new building.
12. The Asiatic Society to retain their library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.
13. Collection of Asiatic Society to be kept distinguished in the Museum.
14. Custody of the collections of the Asiatic Society until completion of the new building.
15. In case of determination of trust, Asiatic Society may reclaim their collections.

An Act to provide for the establishment of a Public Museum at Calcutta.

Whereas it is expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum; It is enacted as follows:

Preamble.

I. The Governor-General of India in Council shall cause to be erected, at the expense of the Government of India, a suitable building in Calcutta, on or near the site now occupied by the Small Cause Court, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical, or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal, and to the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings, and other property.

Building to be erected for Indian Museum.

II. The said building shall be constructed according to such plans and specifications as shall have been approved of and agreed upon by and between the Secretary to the Government of India in the Public Works Department for the time being and the Council of the said Society; and in case the said Secretary and Council shall be unable to agree with reference to any such plans or specifications, the point or points on which they shall so disagree shall be referred to the final decision of the Governor-General of India in Council. Such building shall be completed, so far as to be in a condition to receive the collections mentioned in Section 11 of this Act, within five years from the date of passing of this Act; and the Government of India shall keep the building in repair, and pay and defray the salaries, allowances, and pensions of the officers and servants, and all other expenses connected with the said Indian Museum.

Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

Trustees of the Indian Museum incorporated.

III. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in the Home Department,

four other persons to be nominated by the Governor-General of India in Council,

the President of the Asiatic Society of Bengal and three other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist five Members thereof.

Trustees empowered to receive bequests, donations, and subscriptions.

IV. It shall be lawful for the said Body Corporate to receive bequests, donations, and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and to hold the same and to lay out such money for the purpose of the said Indian Museum in the improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Museum, and all such collections shall become the property of the said Body Corporate for the purposes of their Trusts herein mentioned; and the said Body Corporate shall have the exclusive possession, occupation, and control, for the purpose of such Trusts, of the said building, other than those portions thereof, which upon its completion shall be set apart by the said Body Corporate for the records and offices of the Geological Survey of India, and for the accommodation of the said Society, and the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

Ex-officio Members.

V. The persons for the time being holding the offices respectively mentioned in Section 3 of this Act shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provisions in case of two offices being held by one person.

In the event of any two of the said offices being held by the same person, it shall be lawful for the Governor-General of India in Council from time to time to nominate such other person as to him may seem fit, to be a Trustee under this Act so long as the said two offices shall be held by one person: Provided that when, and so often as the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India in the Home Department, or Superintendent of the Geological Survey of India, shall also be the President of the said Society, the Council of the Society may nominate any other person being a Member of the Society to be a Trustee under this Act so long as such presidency shall be held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary or Suprintendent.

VI. If any of the said Trustees to be nominated by the Governor-

Power to appoint new Trustees.

General of India in Council or by the Council of the said Society, or any Trustee appointed as herein provided, shall die or be absent from India for a period exceeding twelve months, or desire to be discharged, or refuse or become incapable to act, then and in every such case it shall be lawful for the Governor-General of India in Council or the Council of the said Society, as the case may be, to appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid, and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Quorum.

VII. At all meetings of the said Body Corporate, five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Power to Trustees to make, alter, and repeal bye-laws, and to appoint officers and servants.

VIII. It shall be lawful for the said Body Corporate from time to time to make, alter, and repeal bye-laws consistent with this Act for the management of the said Museum, for the summoning, holding, and adjournment of General and Special Meetings of Members of the Body Corporate, for securing the attendance of the Members at such meetings, for the provision and keeping of minute books and account books, for the compiling of catalogues, and for all other purposes necessary for the execution of their Trust. And all officers and servants, salaried or otherwise, employed in the care or management of the Trust property shall be appointed, and may be removed or suspended by the said Body Corporate, subject to such regulations and conditions as such Body Corporate shall think proper, and such officers and servants shall be considered public servants within the meaning of the Indian Penal Code.

Trustees may exchange or sell duplicates.

IX. It shall be lawful for the Trustees from time to time to order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities to be exchanged for manuscripts, books, or other objects of interest, or to direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees shall furnish annual reports and accounts.

X. The said Trustees shall furnish to the Government of India, on or before the 1st day of December in each year, a report of their several proceedings, acts, and ordinances for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General of India in Council shall appoint in this behalf, accounts of all monies expended by the Trustees during the past twelve months supported by the necessary vouchers. The said report and accounts shall be annually published for general information.

Asiatic Society to remove their collections to the new building.

XI. The Council of the said Society shall cause the collections belonging to the Society and illustrative of Indian Archæology and the several branches of Natural History, and all additions that may be made thereto, whether before or after the time next hereinafter mentioned, to be

removed to and deposited in the said building, at the expense of the Government of India, as soon as the same shall be completed so far as aforesaid.

The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.

XII. The said Society shall continue to have the same exclusive property in and control over their said Library, Manuscripts, Maps, Coins, Busts, Pictures and Engravings, which they at present possess, and the Council of the said Society shall have the exclusive possession, occupation, and control, for the purposes of the said Society, of those portions of the said building which shall, upon its completion, be set apart for the accommodation of the said Society and the reception of their Library and other property mentioned in Section 4 of this Act.

Collections of Asiatic Society to be kept distinguished in the Museum.

XIII. Every article in the collections and additions mentioned in Section 11 of this Act shall be marked and numbered, and shall (subject to the provisions contained in Sections 9, 14, and 15 of this Act) be kept and preserved in the said Indian Museum with such marks and numbers, and an inventory of such articles shall be made by the said Society, and, on such articles being deposited as aforesaid, one copy of such inventory shall be signed by the said Trustees, and kept by the said Society, and another copy shall be signed by the Council of the said Society, and kept by the said Trustees. All objects taken in exchange under Section 9 of this Act for, and all monies payable on sale under the same Section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers, and declarations by this Act limited and declared concerning the same articles.

Custody of the collections of the Asiatic Society until completion of the new building.

XIV. Until the said building shall be completed so far as aforesaid, the said collections of the said Society and all additions that may be made thereto in the meantime shall remain in the house in which they are at present, but under the care of such persons as by the Trustees shall be approved and nominated in this behalf, with such salaries and allowances as, subject to the approval of the Government of India, the Trustees shall limit and direct; and the said collections and additions shall be open to all persons desirous to view the same, under such rules as by the said Trustees shall be established, and the said salaries and allowances shall be paid by the Government of India.

In case of determination of Trust, Asiatic Society may reclaim their collections.

XV. In the event of the Trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in Section 11 of this Act shall become the property of the said Society or their assigns; and the said Society shall vacate the portions of the said building which shall have been set apart as in the twelfth Section of this Act is mentioned; and such portions shall then become the property of the Government of India, anything in this Act contained to the contrary notwithstanding.

THE INDIAN REGISTRATION ACT, 1866.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

	Section.
Short Title	1
Interpretation Clause	2
Repealed	3
Power to invest Head Executive Officer of Territories under immediate administration of Government of India with authority vested by this Act in Local Governments ...	4

PART II.

Of the Registration Establishment.

General Registry Office	5
Branch General Registry Office.	
Formation and alteration of Districts and Sub-Districts ...	6
Establishment of Registry and Sub-Registry Offices ...	7
Appointment of Registrars and Sub-Registrars	8
Appointment of Deputy Registrar General to perform duties of Registrar General, except those mentioned in Sections 80 and 83, during his absence on duty	9
Provisions for cases of absence of a Registrar from his District or vacancy in his Office	10
Provision for case of Registrar's absence from Office on duty in his District	11
Provision for cases of absence of Sub-Registrar or vacancy in his Office	12
Appointments under Section 9, 10, 11, or 12 to be reported to local Government. Local Government may suspend, remove, or dismiss any person appointed under this Act	13
Remuneration and establishments of Registering Officers ...	14
Seals of Registering Officers	15
Register Books—Forms—Fire-proof boxes	16

PART III.

Of Registrable Documents.

Instruments of which the registration is compulsory ...	17
Exception of composition-deeds.	
And of transfers of shares and debentures in Land Companies.	
Documents of which the registration is optional	18
Documents in language not understood by Registering Officer ...	19
Documents containing interlineations, blanks, erasures, or alterations	20
Description of parcels in instruments relating to immoveables.	
Documents containing maps or plans	21

PART IV.

Of the Time of Registration.

Time for registering instruments of which the registration is compulsory	22
Time for registering documents of which the registration is optional	23

Section.

Provision where delay in registering is unavoidable ... 24
Provision for last day of period for registration falling on a holiday 25
Wills or Authorities to adopt may be registered or deposited at any time 26
Alteration of Act XIV. of 1859, Section 1, Clause 10 ... 27
Saving of time prescribed by Statute for registration of instruments 28

PART V.

Of the Place of Registration.

Place for registering instruments relating to immoveables ... 29
Place for registering other instruments 30
Registration by Registrar General of instruments referred to in Section 29 31
Registration by Registrar 32
Registration or acceptance for deposit at private residence ... 33

PART VI.

Of the Presentation of Instruments for Registration.

Persons to present documents for registration 34
Powers of Attorney recognizable for purpose of Section 34.
Proviso as to persons infirm, or in jail, or exempt from appearing in Court 35
Enquiry before registration by the Registering Officer ... 36

PART VII.

Of the Enforcement of Attendance of Executants and Witnesses.

Procedure where attendance of executant or witness is desired... 37
Revenue Officer to issue and cause service of summons ... 38
Persons exempt from attendance at Registration Office ... 39
Law as to summonses, Commissions and witnesses in Civil suits to apply to summonses, Commissions and witnesses under this Act 40

PART VIII.

Of sending to a Registry Office Memoranda of Decrees and Orders affecting Immoveable Property.

Memorandum of decree affecting registered document relating to immoveable property to be sent to Registrar within whose District the document was originally registered 41
Memorandum of decree affecting immoveable property to be sent to Registrar in whose District such property is situate ... 42
Costs of registration of memoranda of decrees and orders ... 43

PART IX.

Of the Presentation and Deposit of Wills and Authorities to adopt.

Persons entitled to present for registration Wills and Authorities to adopt.
Presentation or deposit of Wills and Authorities to adopt ... 44
Withdrawal of sealed cover deposited under Section 44 ... 45
Proceedings on death of depositor 46
Re-deposit.

PART X. *Section.*

Of the Effects of Registration and Non-Registration.

Time from which registered document operates 47
Registered instruments relating to property to take effect against oral agreements 48
Effect of non-registration of documents required to be registered 49
Registered instruments relating to immoveables, of which the registration is optional, to take effect against unregistered instruments... 50
Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract ... 51

Special Registration of Obligations for Payment of Money.

Record of agreement that amount secured by an obligation may be recovered summarily... 52
Enforcement of such agreement. Decree 53
Power to order obligation to be deposited in Court... ... 54
Court may, under special circumstances, set aside decree ... 55

PART XI.

Of the Duties and Powers of Registering Officers.

(A) As to the Register Books and Indexes.

Register Books to be kept in the several Offices 56
Documents to be copied according to order of presentation ... 57
Entries to be numbered consecutively 58
Current Indexes and entries therein 59
Indexes to be made by Registering Officers.
Extra particulars in Indexes 60
Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar 61
One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes 62
Copies sent by Registrar to be filed in Indexes of General Registry Office 63
Annual alphabetical Index to entries in Indexes 64
Registering Officers to allow inspection of certain Books and Indexes, and to give certified copies of entries 65

(B) As to the Procedure on admitting to Registration.

Particulars to be endorsed on documents admitted to registration 66
Such endorsements to be dated and signed by Registering Officer 67
Certificate showing that document has been registered, and number and page of book in which it has been copied ... 68
Endorsements and certificate to be copied 69
Document to be returned.
Procedure on presentation of a document in a language unknown to the Registering Officer 70
Power to administer oaths 71
Record of substance of statements.

(C) Special Duties of Sub-Registrar.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts ... 72
Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts ... 73

(D) Special Duties of Registrar. *Section.*

Procedure on registering instruments under Section 32 ... 74
Procedure on receipt of memorandum under Section 41.
Procedure on receipt of memorandum under Section 42 ... 75
Registration of Wills and Authorities to adopt 76
Procedure on deposit of Wills or Authorities to adopt ... 77

(E) Of the Registrar General.

Procedure on registration in General Registry Office ... 78

(F) Of the Controlling Powers of Registrars and Registrars General.

Registrar to superintend and control Sub-Registrars ... 79
Powers of Registrar General 80
Power to frame Rules.
No order to cancel registration 81

PART XII.

Of Refusal to register.

Reasons for refusal to Register to be recorded by Registrar or Sub-Registrar 82
Registrar may alter or revise orders of Sub-Registrar refusing registration... 83
Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under Section 17 or Section 18, Clauses 1, 2, 3, and 4, ... 84
Petition.
To be verified.
Document admissible in evidence.
Court to fix day for hearing petition, and copy thereof to be served.
Court may order document to be registered ... ...
Provision for case in which the Judge is the Registering Officer
Registering Officer not to be liable for any thing *bonâ fide* done or refused in his official capacity 85

PART XIII.

Of the Fees for Registration, Searches, and Copies.

Fees for registration, searches and copies to be fixed by local Government. Table of Fees 86
Fees and penalties to be credited to Government 87

PART XIV.

Miscellaneous.

Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure 88
Registration of instruments executed by Government Officers or certain public functionaries 89
Penalty for incorrectly copying, endorsing, translating, or registering documents with intent to injure 90
Penalty for making false statements before Registering Officer... 91
Penalty for delivering false copy or translation 92
Penalty for false personation 93
Penalty for abetment of offences under this Act 94
Registering Officer may institute prosecutions 95
Registering Officers to be deemed Public Servants ... 96
References to Act XVI. of 1864 to be read as if made to this Act 97
Commencement of Act where Act XVI. of 1864 is in force ... 98

Section.

Power to extend Act to other Territories 98
Repeal of Rules relating to registration in certain Territories ... 99
Time for registering instruments executed in such Territories before extension of this Act 100
Recognition, in Territories in which Act XVI. of 1864 is not in force, for three months, of powers of attorney not duly executed 101
Repealed 102

SCHEDULE. Form of petition under Section 84.
Form of verification.

ACT No. XX. OF 1866.*

1. Short Title.
2. Interpretation Clause. "British India." "Year and Month." "Section." "Lease." "Will." "Instrument." "Obligation." "Signature." "Signed." "Immoveable." "Property." "Books." "Endorsements." "Endorsed." "Representative." "Oath." "Imprisonment." "Person." "Addition." Number. Gender. "Local Government." "High Court." "District Court." "Civil Court." "General Registry Office." "District." "Sub-District."
3. Repealed.
4. Power to invest Head Executive Officer of Territories under immediate administration of Government of India with authority vested by this Act in local Governments.
5. General Registry Office. Branch General Registry Office.
6. Formation and alteration of Districts and Sub-Districts.
7. Establishment of Registry and Sub-Registry Office.
8. Appointment of Registrars and Sub-Registrars.
9. Appointment of Deputy Registrar General to perform duties of Registrar General, except those mentioned in Sections 80 and 83, during his absence on duty.
10. Provision for cases of absence of a Registrar from his District or vacancy in his office.
11. Provision for case of Registrar's absence from office on duty in his District.
12. Provision for cases of absence of Sub-Registrar or vacancy in his office.
13. Appointments under Section 9, 10, 11, or 12 to be reported to local Government. Local Government may suspend, remove, or dismiss any person appointed under this Act.
14. Remuneration and establishments of Registering Officers.
15. Seals of Registering Officers.
16. Register Books. Forms. Fire-proof Boxes.
17. Instruments of which the registration is compulsory. Exception of composition-deeds. And of transfers of shares and debentures in Land Companies.
18. Document of which the registration is optional.
19. Documents in language not understood by Registering Officer.
20. Documents containing interlineations, blanks, erasures, or alterations.
21. Description of parcels in instruments relating to immoveables. Documents containing maps or plans.
22. Time for registering instruments of which the registration is compulsory.
23. Time for registering documents of which the registration is optional.
24. Provision where delay in registering is unavoidable.
25. Provision for last day of period for registration falling on a holiday. Wills or Authorities to adopt may be registered or deposited at any time.
26. Wills or authorities to adopt may be registered or deposited at any time.
27. Alteration of Act XIV. of 1859, Section 1, Clause 10.
28. Saving of time prescribed by statute for registration of instruments.
29. Place for registering instruments relating to immoveables.
30. Place for registering other instruments.
31. Registration by Registrar General of instruments referred to in Section 29.
32. Registration by Registrar.
33. Registration or acceptance for deposit at private residence.
34. Persons to present documents for registration.
35. Powers of Attorney recognizable for purposes of Section 34. Proviso as to persons infirm or in Jail, or exempt from appearing in Court.
36. Enquiry before registration by the Registering Officer.
37. Procedure where attendance of executant or witness is desired.
38. Revenue Officer to issue and cause service of summons.
39. Person exempt from attendance at Registration Office.
40. Law as to summonses, Commissions, and witnesses in civil suits to apply to summonses, Commissions, and witnesses under this Act.
41. Memorandum of decree affecting registered documents relating to immoveable property to be sent to Registrar within whose district the document was originally registered.
42. Memorandum of decree affecting immoveable property to be sent to Registrar in whose district such property is situate.
43. Costs of registration of memoranda of decrees and orders
44. Persons entitled to present for registration Will and Authorities to adopt. Presentation or deposit of Wills and Authorities to adopt.
45. Withdrawal of sealed cover deposited under Section 44.
46. Proceedings on death of depositor. Re-deposit.
47. Time from which registered document operates.

* Declared applicable to the Hyderabad Assigned Districts. See G. O. No. 129, in *Gazette of India*, 2nd May, 1868, p. 817.

48 Registered instruments relating to property to take effect against oral agreements.
49 Effect of non registration of documents required to be registered
50 Registered instruments relating to immoveables of which the registration is optional, to take effect against unregistered instruments
51 Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract
52. Record of agreement that amount secured by an obligation may be recovered summarily.
53. Enforcement of such agreement Stamp on petition. Decree.
54. Power to order obligation to be deposited in Court
55. Court may, under special circumstances, set aside decree.
56. Register Books to be kept in the several offices
57 Documents to be copied according to order of presentation.
58. Entries to be numbered consecutively.
59. Current Indexes and entries therein
60. Indexes to be made by Registering Officers Extra particulars in Indexes
61. Two copies of entries in Indexes Nos I and II to be sent by Sub Registrar to Registrar
62 One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.
63 Copies sent by Registrar to be filed in Indexes of General Registry Office.
64 Annual alphabetical Index to entries in Indexes
65 Registering Officers to allow inspection of certain Books and Indexes, and to give certified copies of entries
66. Particulars to be endorsed on documents admitted to registration.
67. Such endorsements to be dated and signed by Registering Officer
68. Certificate showing that document has been registered, and number and page of Book in which it has been copied
69. Endorsements and certificate to be copied Document to be returned
70. Procedure on presentation of a document in a language unknown to the Registering Officer.
71. Power to administer oaths Record of substance of statements
72 Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub Districts
73 Procedure on Sub-Registrar's registration of document relating to immoveable property situated in several Districts
74 Procedure on registering instrument under Section 32
75. Procedure on receipt of memorandum under Section 41. Procedure on receipt of memorandum under Section 42
76 Registration of Wills and Authorities to adopt
77 Procedure on deposit of Wills or Authorities to adopt.
78. Procedure on registration in General Registry Office
79 Registrar to superintend and control Sub-Registrars
80 Powers of Registrar General Power to frame Rules.
81. No order to cancel registration
82 Reasons for refusal to register to be recorded by Registrar or Sub-Registrar
83 Registrar may alter or revise orders of Sub-Registrar refusing registration.
84. Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under Section 17, or Section 18, Clauses 1, 2, 3, and 4.
Petition to be verified and stamped.
Document admissible in evidence
Court to fix day for hearing petition, and copy thereof to be served.
Court may order document to be registered
Provision for case in which the Judge is the Registering Officer
85. Registering Officer not to be liable for anything *bonâ fide* done or refused in his official capacity.
86. Fees for registration, searches, and copies to be fixed by local Government. Table of Fees.
87. Fees and penalties to be credited to Government
88 Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.
89. Registration of instruments executed by Government officers or certain public functionaries
90. Penalty for incorrectly copying, endorsing, translating, or registering documents with intent to injure
91. Penalty for making false statement before Registering Officer.
92. Penalty for delivering false copy or translation.
93 Penalty for false personation
94 Penalty for abetment of offences under this Act.
95 Registering Officer may institute prosecution
96. Registering Officers to be deemed Public Servants.
97 References to Act XVI of 1864 to be read as if made to this Act.
98. Power to extend Act to other Territories.
99 Repeal of Rules relating to registration in certain Territories
100. Time for registering instruments executed in such Territories before extension of this Act
101. Recognition in Territories in which Act XVI. of 1864 is not in force, for three months, of Powers of Attorney not duly executed.

An Act to provide for the Registration of Assurances.

Preamble. Whereas it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows:

PART I.

Preliminary.

Short Title. I. This Act shall be called "The Indian Registration Act, 1866."

Interpretation Clause. II. In this Act—unless there be something repugnant in the subject or context—

"British India" denotes the Territories which are or may become vested in Her Majesty or Her successors by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca:

"British India."

"Year" and "Month" respectively mean a year or month reckoned according to the British Calendar:

"Year" and "Month."

"Section" denotes a Section of this Act:

"Section."

"Lease" includes a counterpart, a kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a patta or muchalka, as respectively defined in Section 3 of Act VIII. of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency:

"Lease."

"Will" includes a codicil and every writing making a voluntary posthumous disposition of property.

"Will."

"Instrument" does not include a Will nor an Authority to adopt:

"Instrument."

"Obligation" denotes any instrument by which one person (hereinafter called the obligor) binds himself absolutely or conditionally to pay money to another person (hereinafter called the obligee), and includes a Bond, a Bill of Exchange, a Hindoo, and a Promissory Note:

"Obligation."

"Signature" and "signed" include and apply to the affixing of a mark:

"Signature."
"Signed."

"Immoveable Property" includes land, buildings, rights to ways, lights, fisheries, or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to any thing which is attached to the earth; but not standing timber, growing crops, nor grass:

"Immoveable Property."

"Moveable Property" includes standing timber, growing crops, grass, fruit upon trees, and property of every other description, except immoveable property:

"Moveable Property."

"Book" includes a portion of a Book, and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering-slip to any document tendered for registration under this Act:

"Endorsement."
"Endorsed."

"Representative" includes the guardian of an Infant and the Committee or other legal curator of a Lunatic or Idiot:

"Representative."

"Oath" includes a solemn affirmation:

"Oath."

"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code:

"Imprisonment."

"Person" includes any Company or Association or body of persons whether incorporated or not:

"Person."

"Addition" means the place of residence, and the profession, trade, rank or title (if any) of a person described:

"Addition."

Words in the singular number include the plural; words in the plural number include the singular; and words importing the masculine gender include females:

Number.
Gender.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized by law to administer the Executive Government in such part: "High Court" denotes the highest Civil Court of appeal therein: "District Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in its ordinary original civil jurisdiction: and "Civil Court" includes a Revenue Court, but not a Court for the relief of insolvent debtors:

"Local Government."
"High Court."
"District Court."
"Civil Court."

"General Registry Office" includes a Branch General Registry Office:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

"General Registry Office."
"District." "Sub-District."

III. *Repealed by the Repealing Act XIV.*, 1870.

IV. It shall be lawful for the Governor-General of India in Council, by an order to be published in the *Gazette of India*, to declare that in any Territory under the immediate administration of the Government of India, the Head Executive Officer of such Territory shall exercise all or any of the powers* vested by this Act in the local Governments; and thereupon such Officer shall, for the purposes of this Act, be the local Government of such Territory.

Power to invest Head Executive Officer of Territories under immediate administration of Government of India with authority vested by this Act in local Governments.

PART II.

Of the Registration Establishment.

V. The local Government shall establish within the Territories subject to such Government, at such place as it shall think fit, an Office to be called the General Registry Office, and shall appoint an Officer to the charge of such Office, who shall be the Registrar General of the Territories for which he is appointed. The local Government may also, with the previous sanction of the Governor-General of India in Council establish a Branch General Registry Office and appoint a Branch Registrar General; and every act done by or before any Branch Registrar General so appointed shall have the same effect as if done by or before a Registrar General: Provided that such Branch Registrar General shall not exercise the power to frame Rules conferred on the Registrar General by Section 80. Any Registrar General or Branch Registrar General may hold simultaneously any other office under Government.

General Registry Office.

Branch General Registry Office.

VI. For the purposes of this Act, the local Government shall form Districts and Sub-Districts, and shall prescribe and from time to time may alter the limits of such Districts and Sub-Districts. A Sub-District may be conterminous with a District, or may be situate partly in one District and partly in another.

Formation and alteration of Districts and Sub-Districts.

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* These powers are to be exercised in the Hyderabad Assigned Districts by the Resident.—See G. O. No. 1029, in *Gazette of India*, 2nd May, 1868, p. 847.

The Districts and Sub-Districts formed under this Section, together with the limits thereof and every alteration of such limits, shall be notified by the local Government in the Official Gazette immediately after every such formation or alteration. Every such alteration shall take effect on such day after the notification as shall be mentioned therein.

Establishment of Registry and Sub-Registry Offices.

VII. The local Government shall establish in every District an Office to be styled the Registry Office, and in every Sub-District an Office to be styled the Sub-Registry Office.

Appointment of Registrars and Sub-Registrars.

VIII. The local Government may appoint such persons, whether Public Officers or not, as it may think proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid respectively.

Appointment of Deputy Registrar General to perform duties of Registrar General, except those mentioned in Sections 80 and 83, during his absence on duty.

IX. During the absence on duty of the Registrar General or Branch Registrar General from the place where the General Registry Office is established, it shall be lawful for him to appoint the Registrar of such place, or, with the previous sanction of the local Government, such other person as he shall think fit, to perform the duties of the Registrar General, except those mentioned in Sections 80 and 83. A Registrar so appointed shall perform such duties in addition to his own duties as Registrar. During such absence the Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may use the seal of the Registrar General or Branch Registrar General, as the case may be.

Provision for cases of absence of a Registrar from his District or vacancy in his Office.

X. In case of the absence from his District or of a vacancy occurring in the Office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General shall appoint in this behalf, or, in default of such appointment, the Judge of the District Court, shall, during such absence or vacancy, be the Registrar. In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar General to appoint any person whom he may think proper to conduct the duties of the office of such Registrar.

Provision for case of Registrar's absence from Office on duty in his District.

XI. In case of the absence of any Registrar from his Office on duty in his District, it shall be lawful for him to appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar except those mentioned in Sections 79 and 83.

Provision for cases of absence of Sub-Registrar or vacancy in his Office.

XII. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the Office of any Sub-Registrar, any person whom the Registrar of the District shall appoint in this behalf shall, during such absence or vacancy, be Sub-Registrar.

Appointments under Section 9, 10, 11, or

XIII. All appointments made under Section 9, 10, 11, or 12 shall be reported to the local Government by the Registrar General or Branch Registrar General, as the case

12 to be reported to local Government.

Local Government may suspend, remove or dismiss any person appointed under this Act.

may be. Such report shall be either special or general, as the local Government shall direct; and the local Government shall have power to suspend, remove, or dismiss any persons appointed under the provisions of this Act, and to appoint other persons in their stead.

Remuneration and establishments of Registering Officers.

XIV. It shall be lawful for the local Government, with the previous sanction of the Governor-General of India in Council, to assign such salaries as such Government may from time to time deem proper, to the Registering Officers appointed under this Act, or to provide for the remuneration of such Officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the local Government, with the like sanction, to allow such establishments for the several Registration Offices as may be necessary for the purposes of this Act.

Seals of Registering Officers.

XV. The Registrar General, Branch Registrar General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the local Government shall direct: "The seal of the Registrar General *(or* of the Branch Registrar General, *or* of the Registrar, *or* of the Sub-Registrar*)* of ."

Register-Books.

Forms.

XVI. The local Government shall provide for the Office of every Registering Officer such Books as may be necessary for the purposes of this Act. The Books so provided shall contain such forms as shall from time to time be prescribed by the Registrar General, with the sanction of the local Government, and the pages of such Books shall be consecutively numbered in print, and the number of pages in each Book shall be certified on the title page by the Officer by whom such Books shall be issued. The local Government shall further supply the Office of every Registrar with a fire-proof box.

Fire-proof boxes.

PART III.

Of registrable Documents.

Instruments of which the registration is compulsory.

XVII. The instruments next hereinafter mentioned shall be registered, provided the property to which they relate shall be situate in a District in which, and provided they shall have been executed on or after the date on which the said Act XVI. of 1864, or this Act shall have come or shall come into operation, (that is to say):—

1. Instruments of gift of immoveable property:

2. Instruments (other than an instrument of gift) which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of 100 Rupees and upwards to or in immoveable property:

3. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title, or interest; and

4. Leases of immoveable properly for any term exceeding one year:

Provided that the former part of this Section shall not apply to any Composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any debenture issued by any such Company: Provided, also, that, so far only as regards the Territories respectively under the Governments of the Lieutenant-Governors of Bengal and the North-Western Provinces, the local Government may, by order published in the Official Gazette, exempt from the operation of the former part of this Section any leases of immoveable property, executed in any particular District or part of a District, the terms granted by which shall not exceed two years, and the annual rents reserved by which shall not exceed 50 Rupees.

Exception of Composition deeds.

And of transfers of shares and debentures in Land Companies.

Documents of which the registration is optional.

XVIII Any of the documents next hereinafter mentioned may be registered under this Act, (that is to say):—

1. Instruments which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent, of a value less than 100 Rupees to or in immoveable property:

2. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title, or interest:

3. Leases of immoveable property for any term not exceeding one year, and the pattás and muchalkás referred to in Section 2:

4. Awards relating to immoveable property:

5. Instruments which purport or operate to create, declare, assign, limit, or extinguish any right, title, or interest to or in moveable property:

6. Wills or Authorities to adopt a son:

7. Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

Documents in language not understood by Registering Officer.

XIX. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

Documents containing interlineations, blanks, erasures, or alterations.

XX. It shall be in the discretion of the Registering Officer to refuse to accept for registration any document in which any interlineation, blank, erasure, or alteration shall appear, unless the persons executing the document shall attest with their signatures or initials such interlineation, blank, erasure, or alteration; and it shall be the duty of the Officer registering such document, at the time of registering the same, to make a note in the Register of such interlineation, blank, erasure, or alteration.

Description of parcels in instruments relating to immoveables.

XXI. No instrument relating to immoveable property shall be accepted for registration unless it shall contain a description of such property sufficient to identify the same. Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their occupancies, and also, whenever it is practicable, by reference to a Government map or survey. No document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property shall be situate in several Sub-Districts, by such number of true copies of the map or plan as shall be equal to the number of such Sub-Districts, and, in case the property shall be also situate in several Districts, by such further number of true copies of the map or plan as shall be equal to the number of such Districts.

Documents containing maps or plans.

PART IV.

Of the Time of Registration.

Time for registering instruments of which the registration is compulsory.

XXII. Subject to the provision contained in Section 24, no instrument of the kinds mentioned in Section 17, Clauses 1, 2, 3, and 4, shall be accepted for registration unless presented for that purpose to the proper Officer within four months from the date of its execution; provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

Time for registering documents of which the registration is optional.

XXIII. Subject to the provision contained in Section 24, no document of any of the kinds mentioned in Section 18 (other than a Will or Authority to adopt a son), shall be accepted for registration unless presented for that purpose to the proper Officer within two months from the date of its execution; provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

Explanation.—The date of execution of a document means the day on which it purports to have been executed.

Provision where delay in registering is unavoidable.

XXIV. If any instrument shall, owing to urgent necessity or unavoidable accident, not have been presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, it shall be lawful for the Registrar, in cases where the delay in presentation shall not exceed four months, to direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such instrument shall be accepted for registration.

Provision for last day of period for registration falling on a holiday.

XXV. Whenever the last day of any period hereinbefore provided for the registration of any document shall fall on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

Wills or Authorities to adopt may be registered or deposited at any time.

XXVI. Any Will or Authority to adopt a son may at any time be registered or deposited in manner hereinafter provided.

Alteration of Act XIV. of 1859, Section 1, Clause 10.

XXVII. In Act XIV. of 1859, Section 1, Clause 10, the last Clause shall be read as if for the words "within six months from the date thereof" the words "within the time prescribed in that behalf by 'The Indian Registration Act, 1866,' " were substituted.

Saving of time prescribed by Statute for registration of instruments.

XXVIII. Nothing in this Act shall be taken to alter the time within which any certificate or other document must be registered under the provisions of "The Bankrupt Law Consolidation Act, 1849," Section 143, or any other Act of the Parliament of the United Kingdom of Great Britain and Ireland.

PART V.

Of the Place of Registration.

Place for registering instruments relating to immoveables.

XXIX. Save as in this Act otherwise provided, every instrument mentioned in Section 17, Clauses 1, 2, 3, and 4, and Section 18, Clauses 1, 2, 3, and 4, shall be presented for registration in the Office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such instrument relates is situate.

Place for registering other instruments.

XXX. Every instrument other than an instrument referred to in the last preceding Section may be presented for registration in the Office of the Sub-Registrar in whose Sub-District the instrument was executed, or in the Office of any Sub-Registrar under the local Government at which all the persons executing and claiming under the instrument shall desire the same to be registered.

Registration by Registrar General of instruments referred to in Section 29.

* XXXI. The Registrar-General may in his discretion receive and register any instrument referred to in Section 29, without regard to the situation in any part of British India of the property to which the instrument relates.

Registration by Registrar.

XXXII. Any Registrar may in his discretion receive and register any instrument which might be registered by any Sub-Registrar subordinate to him. He shall also register Wills and Authorities to adopt. The Registrar of a District including a Presidency Town shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

* This Section is to be read as if Mysore were part of British India. See G. O. No. 49, in *Gazette of India*, 22nd February, 1868, p. 327.

Registration or acceptance for deposit at private residence.

XXXIII. In ordinary cases the registration or deposit of documents under this Act shall be made only at the Office of the Officer whose duty it shall be to register the same: but any such Officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring to deposit a Will or Authority to adopt a son, and register or accept for registration or deposit such document, Will, or Authority. Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

PART VI.

Of the Presentation of Instruments for Registration.

Persons to present documents for registration.

XXXIV. Subject to the provisions of the last preceding Section, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office by some person executing or claiming under the same, or by the representative, or assign of such person, or by the agent of such person, representative, or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

Powers of attorney recognizable for purposes of Section 34.

*XXXV. For the purposes of the last preceding Section, the powers of attorney next hereinafter mentioned shall alone be recognized, (that is to say):—

(a.)—If the principal at the time of executing the power of attorney resides in any part of British India in which this Act operates, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides.

(b.)—If the principal at the time aforesaid resides in any other part of British India, a power of attorney executed before and authenticated by the Judge of the District Court within the local limits of whose jurisdiction the principal resides:

(c.)—If the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public or any Court, Judge, Magistrate, British Consul, or Vice-Consul, or representative of Her Majesty or of the Government of India.

Any power of attorney mentioned in this Section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

Provided that persons who by reason of bodily infirmity are unable without risk or serious inconvenience to attend as next hereinafter mentioned, and persons who are in jail under civil or criminal process, and persons exempt by law from personal appearance in Court, shall not be required to attend at the Office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing

* See Note to Section 31.

any such power of attorney as is mentioned in Clauses (*a.*) and (*b.*) of this Section; but in every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the Office or Court aforesaid. To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal or to the jail in which he is confined and examine him, or issue a Commission for the examination of such person.

Enquiry before registration by the Registering Officer.

XXXVI. Subject to the provisions contained in this Section and in Sections 76, 80, 84, and 89, no document shall be registered under this Act unless the person executing such document, or their representatives, assigns, or agents authorized as aforesaid, appear before the Registering Officer. He shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign, or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the Registering Officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document;

Or, in the case of any person appearing by a representative, assign, or agent, if such representative, assign, or agent shall admit the execution;

Or, if the person executing the document shall be dead, and his representative, assign, or agent shall not appear before the Registering Officer, or shall refuse to admit the fact of execution, but such Officer shall nevertheless be satisfied of the fact of execution:

The Registering Officer shall register the document as directed in Section 68.

The Registering Officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under Section 37, present in his Office.

PART VII.

Of the Enforcement of Attendance of Executants and Witnesses.

Procedure where attendance of executant or witness is desired.

XXXVII. If any person presenting any document for registration shall desire the attendance of any person whose presence or testimony is necessary for the registration of such document, the Registering Officer may, in his discretion, call upon the Revenue Officer in whose jurisdiction the person whose attendance is so desired may be, to issue and serve a summons requiring him to attend at the Registration Office, either in person or by duly authorized agent, as in the summons may be mentioned and at a time named in such summons.

Revenue Officer to issue and cause service of summons.

XXXVIII. The Revenue Officer, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause the same to be served upon the person whose attendance is so required.

Persons exempt from attendance at Registration Office.

XXXIX. Any person who by reason of bodily infirmity is unable without risk or serious inconvenience to attend in the Registration Office, and any person who is in jail under civil or criminal process, and any person exempt by law from personal appearance in Court and who would but for the provision next hereinafter contained be required to attend in person at the Registration Office, shall not be required so to attend; but in every such case, the Registering Officer shall either himself go to the house of such person or to the jail in which he is confined and examine him, or issue a Commission for his examination.

Law as to summonses, Commissions, and witnesses in civil suits to apply to summonses, Commissions, and witnesses under this Act.

XL. The law in force for the time being as to summonses, Commissions, and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as asforesaid, and *mutatis mutandis*, apply to any summons or Commission issued and any person summoned to appear under the provisions of this Act.

PART VIII.

Of sending to a Registry Office Memoranda of Decrees and Orders affecting Immoveable Property.

Memorandum of decree affecting registered document relating to immoveable property to be sent to Registrar within whose District the document was originally registered.

XLI. When any Civil Court shall by decree or order declare any document relating to immoveable property, which shall have been registered under this Act, to be invalid, or when any Civil Court shall pass a decree or order affecting any such document, and such last-mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or interest under such document to or in the immoveable property to which it relates, such Court shall cause a memorandum of the decree or order to be sent to the Registrar within whose District the document was originally registered.

Memorandum of decree affecting immoveable property to be sent to Registrar in whose District such property is situate.

XLII. When any Civil Court shall by a decree or order create, declare, transfer, limit, or extinguish any right, title, or interest of any person to or in any immoveable property situate in any part of British India in which this Act shall operate, such Court shall cause a memorandum of the said decree or order to be sent to the Registrar or to every Registrar within whose District the whole or any part of such immoveable property is situate, and such memorandum shall so far as may be practicable describe the property in manner required by Section 21.

Costs of registration of memoranda of decrees and orders.

XLIII. The costs of and attending the registration under Sections 41 and 42 of any memorandum of a decree or order shall be costs in the cause, and shall be paid by the Court to the Registrar or to such other person and in such way as the local Government shall direct in that behalf.

PART IX.

Of the Presentation and Deposit of Will and Authorities to adopt.

XLIV. The testator or any person claiming as executor or other-

Persons entitled to present for registration Wills and Authorities to adopt.

Presentation or deposit of Wills and Authorities to adopt.

wise under a Will, may present to any Registrar for registration such Will, and the donor or donee of any Authority to adopt, or the adoptive son, may present to any Registrar for registration such Authority. Any person entitled to present for registration any such Will or Authority may either personally or by a duly authorized agent present to a Registrar such Will or Authority open, and any testator or donor of such Authority may either personally or by duly authorized agent deposit with any Registrar the Will or Authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

Withdrawal of sealed cover deposited under Section 44.

XLV. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply to the Registrar in whose Office such cover shall have been deposited, that the same be delivered to him; and the Registrar, if he shall be satisfied as to the indentity of the depositor with the applicant, shall deliver the cover accordingly.

Proceeding on death of depositor.

Re-deposit.

* XLVI. If on the death of the depositor of a sealed cover under Section 44, application be made to the Registrar in whose Office such cover was deposited to open the same, the Registrar, if he shall be satisfied that the depositor is dead, shall in the presence of the person making such application, open the cover, and shall copy at the expense of the applicant the contents thereof in his Book No. 4. When such copy shall have been made, the Registrar shall re-deposit the original Will or Authority.

PART X.

Of the Effects of Registration and Non-Registration.

Time from which registered document operates.

XLVII. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Registered instruments relating to property to take effect against oral agreements.

† XLVIII. All instruments duly registered under this Act and relating to any moveable or immoveable property, shall take effect against any oral agreement or declaration relating to the some property.

Effect of non-registration of documents required to be registered.

XLIX. No instrument required by Section 17 to be registered shall be received in evidence in any civil proceeding in any Court, or shall be acted on by any Public Servant as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of this Act.

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* The High Court may order an original Will to be brought in and lodged in Court for the purposes of an application for probate; but the Registrar General ought not to give up a Will without an order of the Court, and ought then to make a copy of the Will for his Archives, and note on it the removal of the original by the order of the Court, and file the order with the copy. *In the goods of* Nagindas, 3, B. R., p. 136.

† Certain documents mentioned in the Schedule annexed to Act XXVII., 1868, are by that Act exempted from the operation of this Act.

Registered instruments relating to immoveables, of which the registration is optional, to take effect against unregistered instruments.

L. Every instrument of the kinds mentioned in Clauses 1, 2, and 3 of Section 18 shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered instrument relating to the same property, whether such other instrument be of the same nature as the registered instrument or not.

Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract.

LI. Suits to recover money lent, or interest, or for the breach of any contract, may be brought within six years from the time when the cause of suit arose, in every case in which there is an engagement or contract in writing, provided that such engagement or contract be duly registered under this Act.

Special Registration of Obligations for Payment of Money.

Record of agreement that amount secured by an obligation may be recovered summarily.

LII. Whenever the obligor and obligee of an obligation shall agree that, in the event of the obligation not being duly satisfied, the amount secured thereby may be recovered in a summary way, and shall at the time of registering the said obligation apply to the Registering Officer to record the said agreement, the Registering Officer, after making such enquiries as he may think proper, shall record such agreement at the foot of the endorsement and certificate required by Sections 66 and 68, and such record shall be signed by him and by the obligor, and shall be copied into the Register Book No. 1 or No 6, as the case may be, and shall be *primâ facie* evidence of the said agreement.

Enforcement of such agreement.

LIII. Within one year from the date on which the amount becomes payable, or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable, the obligee of any such obligation registered with such agreement as aforesaid, whether under the said Act XVI. of 1864 or under this Act, may present a petition to any Court which would have had jurisdiction to try a regular suit on such obligation for the amount secured thereby, or for the instalment sought to be recovered.

The petition may be amended by permission of the Court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

Decree.

On production in Court of the obligation and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court.

Such decree may be enforced forthwith under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

Power to order obligation to be deposited in Court.

LIV. In any proceedings under this Part of this Act, the Court may order the obligation sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and may further order that all proceedings shall be stayed until the petitioner shall have given security for costs thereof.

LV. After decree, the Court may, under special circumstances, set

Court may, under special circumstances, set aside decree.

aside the decree, and if necessary stay or set aside execution; but there shall be no appeal against any decree or order made under Section 53, Section 54, or this Section.

PART XI.

Of the Duties and Powers of Registering Officers.

(A.) As to the Register Books and Indexes.

Register Books to be kept in the several Offices.

LVI. The following Books shall be kept in the several Offices hereinafter named, (that is to say):—

In all Registration Offices—

Book 1.—"Register of Instruments relating to immoveable property:"

Book 2.—"Record of reasons for refusal to register."

In the Offices of Registrars—

Book 3.—"Register of deposits of Wills and Authorities to adopt;" and

Book 4.—"Register of Wills and Authorities to adopt."

In the Offices of Registrars and of Sub-Registrars—

Book 5.—"Register of Decrees and Orders:"

Book 6.—"Miscellaneous Register."

In Book 1 shall be entered all documents registered under Section 17 and the first four clauses of Section 18, and all other documents mentioned in Section 18, Clause 7, which relate to immoveable property. In Book 5 shall be filed all Memoranda of Deerees and Orders sent under Section 42. In Book 6 shall be entered all documents registered under Clauses 5 and 7 of Section 18, and not entered in Book 1 or in Book 5: Provided that, if the Registrar General shall so direct, wherever Act XVI. of 1864 is now in force, down to the 31st day of December, 1866, and no longer, the Books directed to be kept by Section 56 of the same Act shall be kept, and the rules relating to the entries made therein and the Indexes to be made therefor shall be observed, anything in this Act contained to the contrary notwithstanding.

Documents to be copied according to order of presentation.

LVII. The day, hour, and place of presentation, and the signanature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; and, subject to the provisions contained in Section 70, every such document shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its presentation, and a receipt for such document shall be given by the Registering Officor to the person presenting the same.

Entries to be numbered consecutively.

LVIII. All entries in each Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current Indexes and entries therein.

LIX. In every Office in which any of the Books next hereinafter mentioned are kept, there shall be prepared current Indexes of the contents of such Books; and every entry in such Indexes shall be made, so far as

practicable, in alphabetical order and immediately after the document to which it relates shall have been copied by the Registering Officer.

Indexes to be made by Registering Officers.

LX. Two such Indexes shall be made in all Registration Offices, and shall be named respectively Index No. I and Index No. II. Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books No. 1, 3, or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book No. 5. Index No. II shall contain such particulars mentioned in Section 21, relating to every such document, as the Registrar-General may from time to time direct in that behalf. A third Index, to be called Index No. III, shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book 6. Indexes Nos. I, II, and III shall also contain such other particulars, and shall be prepared in such form, as the Registrar-General shall from time to time direct.

Extra particulars in Indexes.

Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.

LXI. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar-General shall from time to time direct, two copies of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I and II.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.

LXII. Every Registrar receiving two such copies shall in every month file one of such copies in his Indexes Nos. I and II, respectively; and, at such intervals as the Registrar-General shall from time to time direct, shall send the other of such copies to the General Registry Office. Every Registrar shall also send to the General Registry Office a copy of all the entries which he shall have made in his Indexes Nos. I and II respectively during the last of such intervals.

Copies sent by Registrar to be filed in Indexes of General Registry Office.

LXIII. On the receipt in the General Registry Office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I and II respectively kept in such Office.

Annual alphabetical Index to entries in Indexes.

LXIV. If the Registrar-General shall so direct, an alphabetical Index shall be prepared in every Registration Office at the end of each year of all entries made during the past year in the current Indexes in such Office; and in every Office in which Book No. 2 shall be kept, an alphabetical Index shall be prepared at the end of each year to the entries made in such Book during the past year.

Registering Officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

LXV. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2, and 5 and the Indexes relating to such Books shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 70, copies of entries in such Books shall be given to all persons applying for such copies. Subject to the same provision, copies of entries in Books Nos. 3, 4, and 6 and in the Indexes relating thereto shall be given to any person executing or claiming under the

documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the Registering Officer. Such copies shall be signed and sealed by the Registering Officer, and shall be *primâ facie* evidence of the contents of the original documents.

(B.) As to the Procedure on admitting to Registration.

Particulars to be endorsed on documents admitted to registration.

LXVI. On every document admitted to registration, there shall be endorsed from time to time the following particulars, that is to say:—

1. The signature and addition of every person admitting the execution of the document; and, if such execution shall have been admitted by the representative, assign, or agent of any person, the signature and addition of such representative, assign, or agent:

2. The signature and addition of every person who may have been examined in reference to such document under any of the provisions of this Act; and,

3. Any payment of money or delivery of goods made in the presence of the Registering Officer in reference to the execution of the document, and any admission of receipt of consideration made in his presence in reference to such execution.

Such endorsements to be dated and signed by Registering Officer.

LXVII. The Registering Officer shall affix the date and his signature to all endorsements mentioned in the last preceding Section, relating to the same document and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

LXVIII. After the provisions of Sections 36, 66, and 67 shall have been complied with, the Registering Officer shall endorse on the document a certificate containing the word "Registered," together with the number and page of the Book in which the document shall have been copied. Such Certificate shall be signed, sealed, and dated by the Registering Officer and shall then be *primâ facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsement referred to in the last preceding Section have occurred as therein mentioned.

Endorsements and certificate to be copied.

LXIX. The endorsements and certificate mentioned in Sections 67 and 68 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1. The Registration of the document shall thereupon be considered to be complete, and the document shall then be returned to the person who shall have presented the same for registration, or to such other person (if any) as he shall have nominated in writing in that behalf on the receipt mentioned in Section 57.

Document to be returned.

Procedure on presentation of a document in a language unknown to the Registering Officer.

LXX. When a document is presented for registration under Section 19, the translation shall be transcribed in the Register of instruments of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the Registration Office; and the endorsements and certificate respectively mentioned in Sections 67 and 68 shall be made on the original, and for the purpose of making the other copies required by any Section other than Section 65, the translation shall be treated as if it were the original.

Power to administer oaths.

Record of substance of statements.

LXXI. It shall be lawful for every Registering Officer at his discretion to administer an oath to any person examined by him under the provisions of this Act. He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he shall admit the correctness of such note, it shall be signed by the Registering Officer.

(C.) Special Duties of the Sub-Registrars.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.

LXXII. Every Sub-Registrar on registering a document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in Section 21, to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate; and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.

LXXIII. Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in Section 21 as may be necessary, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate. The Registrar on receiving the same shall enter in his Book No. 1 the copy of the document and one of the copies of the map or plan (if any), and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

(D). Special Duties of Registrar.

Procedure on registering instruments under Section 32.

LXXIV. On registering any instrument relating to immoveable property under Section 32, the Registrar shall forward a copy of such instrument together with a copy of the map or plan (if any) mentioned in Section 21, to each Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and he shall also forward a copy of such instrument, together with such number of copies of the map or plan (if any) mentioned in Section 21, as may be necessary, to any other Registrar in whose District any part of such property is situate; and every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them respectively in Section 73.

Procedure on receipt of memorandum under Section 41.

LXXV. Every memorandum received under Section 41 shall be copied in the margin of the part of the Book in which the document affected by such memorandum is registered: and for this purpose the Registrar shall send a copy of such memorandum to every Sub-Registrar

in his District in whose Office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his Office. When any such memorandum shall relate to immoveable property situate in more Districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose District any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this Section. Every memorandum received by a Registrar under Section 42 shall be filed by him in his Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

Procedure on receipt of memorandum under Section 42.

LXXVI. A Will and an Authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document. A Will or Authority to adopt presented for registration by any person entitled to present the same, other than the testator or donor, shall be registered if the Registrar shall be satisfied that the person so presenting the same is the person he represents himself to be, and that the Will or Authority was executed by the testator or donor, as the case may be.

Registration of Wills and Authorities to adopt.

LXXVII. On receiving for deposit a sealed cover under Section 44, the Registrar, if he shall be satisfied that the depositor is the testator or donor, as the case may be, or his duly authorized agent, shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the Register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover. The Registrar shall then place and retain the sealed cover in his fire-proof box.

Procedure on deposit of Wills or Authorities to adopt.

(E.) Of the Registrar General.

LXXVIII. On any instrument being registered in the General Registry Office under Section 31, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in Section 73.

Procedure on registration in General Registry Office.

(F.) Of the Controlling Powers of Registrars and Registrars General.

LXXIX. Every Sub-Registrar shall perform the duties of his Office under the superintendence and control of the Registrar in whose District the Office of such Sub-Registrar is situate; and every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he may consider necessary in respect of any act or omission of any Sub-Registrar sudordinate to him, or in respect of the rectification of any error regarding the Book or the Office in which any document shall have been registered.

Registrar to superintend and control Sub-Registrars.

Powers of Registrar General.
Power to frame Rules.

LXXX. The Registrar General shall exercise a general superintendence over all the Registry Offices in the Territories administered by the local Government, and shall have power from time to time to frame Rules consistent with this Act—

For providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

For declaring the languages in which, and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon;

For declaring what territorial divisions shall be recognized under Section 21;

For regulating the amount of penalties imposed under Section 24;

For the exercise of the discretion reposed in the Registering Officer by Sections 52 and 71;

For declaring the particulars to be contained in Indexes No. 1, 2, and 3 respectively;

For declaring the holidays that shall be observed in the Registration Offices;

And generally, for regulating the proceedings of the Registrars and Sub-Registrars under him.

The rules so framed shall be submitted to the local Government for approval, and after they shall have been approved, they shall be published in the Official Gazette, and shall then have the same force as if they were inserted in this Act.

No order to cancel registration.

LXXXI. No orders shall be made to cancel the registration of any document under this Act or under Act XVI. of 1864.

PART XII.

Of Refusal to register.

Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.

LXXXII. Every Registering Officer who shall refuse to register a document, except one which he has a discretion to refuse to accept for registration, or except one which he has refused to register, solely because the property to which it relates is not situate within his District or Sub-District, shall make an order of refusal and record his reasons for such order in his Book No. 2 and endorse the words "Registration refused" on the document; and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded. No Registering Officer shall accept for registration a document so endorsed unless and until an appeal shall have been presented under the provisions herein contained and decided in favour of the appellant.

Registrar may alter or revise orders of Sub-Registrar refusing registration.

LXXXIII. An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar

within thirty days from the date of the order, and the Registrar may reverse or alter such order: Provided that, whenever the Registrar shall himself as Sub-Registrar have passed the order appealed against, the appeal shall lie to the Registrar General. Any Registrar or Registrar General who shall refuse to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under Section 17 or Section 18, Clauses 1, 2, 3, and 4.

* LXXXIV. If a Registrar or Registrar General shall under Section 82 make an order of refusal to register any document referred to in Section 29, or if a refusal to register shall have been made under Section 15 of Act XVI. of 1864, or if he shall under Section 83 on appeal make an order of refusal to direct the registration of such document, it shall be lawful for any person claiming thereunder, his representative, assign, or agent authorized as aforesaid, within thirty days after the making of such order of refusal, to apply by petition to the District Court, in order to establish his right to have such document registered.

Petition.

The petition shall be in the form contained in the Schedule to this Act or as near thereto as circumstances will permit, and shall be accompanied by copies of the reasons recorded under Sections 82 and 83, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints; and the petition may be amended by permission of the Court.

To be verified and stamped.

Document admissible in evidence.

The document shall be admissible in evidence on the presentation and hearing of the petition, anything hereinbefore contained to the contrary notwithstanding.

Court to fix day for hearing petition, and copy thereof to be served.

The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the Registering Officer and on such other persons (if any) as the Court shall think fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summons shall apply, *mutatis mutandis*, to copies of petitions under this Section.

Court may order document to be registered.

On the day so fixed as aforesaid, the Court may if it shall think proper, and if the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration, order such Registrar or Registrar General to register the document, or to direct its registration in the proper manner, and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in Sections 66, 67, and 68, and (provided the document be duly presented for registration within thirty days after the making of such order,) the registration pursuant to such order shall

* There is no appeal to the High Court from the decision of a District Court on a petition under this Section *ex-parte*. Dharamdas Bhovavidas, 3, B. R., A. C. J., p. 104.

take effect as if the document had been registered when it was duly presented for registration to the Officer so refusing as aforesaid.

Provision for case in which the Judge is the Registering Officer.

Provided that when the Officer presiding over the District Court shall himself as Registering Officer have made any order appealed against under this Section, the petition shall within sixty days after the making of such order be presented to the High Court, and the provisions contained in the former part of this Section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

Registering Officer not to be liable for anything bonâ fide done or refused in his official capacity.

LXXXV. No Registering Officer shall be liable to any suit, claim, or demand by reason of any thing *bonâ fide* done or refused in his official capacity.

PART XIII.

*Of the *Fees for Registration, Searches, and Copies.*

Fees for registration, searches, and copies to be fixed by local Government.

LXXXVI. Subject to the approval of the Governor-General of India in Council, the local Government shall prepare a Table of Fees payable—

For the registration of documents:
For searching the Registers:
For making or granting copies of reasons, entries, or documents, before, on or after registration;

And of extra or additional Fees payable—

For every registration by a Registrar General under Section 31, or by a Registrar under Section 32:
For special registration under Section 52:
For the issue of Commissions:
For filing translations:
For attending at private residences;
And for such other matters as shall to the local Government appear necessary to effect the purposes of this Act.

Table of fees.

The local Government may from time to time, subject to the like approval, alter such Table. A Table of the Fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the District shall be exposed to public view in every Registration Office.

Fees and penalties to be credited to Government.

LXXXVII. All fees for the registration of documents under this Act shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable under Section 14 to Officers who are paid wholly or in part by fees), and all penalties received under Section 24, shall be remitted to the Treasury of the District or

* As to the Fees payable in the provinces of Mysore and Coorg, see *Gazette of India*, 12th June, 1869, G. O. No. 2708 and G. O. No. 1299, dated 12th June, 1867; and for additions made to Rule 9 of the said Table of Fees, see *Gazette of India*, 17th July, 1869, p. 109., G. O. 3301. As to the Table of Fees leviable in the Central Provinces, see G. O. No. 149, in *Gazette of India*, 21st March, 1868, p. 400; and for the Table of Fees payable in the Hyderabad Assigned Districts, see G. O. No. 129, in *Gazette of India*, 2nd May, 1868, p. 847.

Sub-District or to such other Treasury as the local Government shall from time to time direct, and shall be credited to Government.

PART XIV.

Miscellaneous.

Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.

LXXXVIII. Nothing done in good faith pursuant to the said Act No. XVI. of 1864 or this Act by any Registering Officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of instruments executed by Government Officers or certain public functionaries.

LXXXIX. Notwithstanding anything herein contained, it shall not be necessary for any Officer of Government, or for the Administrator General of Bengal, Madras, or Bombay, or for any Official Trustee, or for the Sheriff, Receiver, or Registrar of a High Court, to appear in person or by agent at any Registration Office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 66; but when any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government, or to such Officer of Government, Administrator General, Official Trustee, Sheriff, Receiver, or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Penalty for incorrectly copying, endorsing, translating, or registering documents with intent to injure.

XC. Every Registering Officer appointed under this Act, and every person employed in his Office for the purposes of this Act, who, being charged with the endorsing, copying, translating, or registering of any document presented or deposited under the provisions of this Act, shall endorse, copy, translate, or register such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for making false statements before Registering Officer.

XCI. Whoever shall intentionally make any false statement, whether on oath or not and whether it shall have been recorded or not, before any Officer acting in execution of this Act, in any proceeding or enquiry under this Act, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Penalty for delivering false copy or translation.

XCII. Whoever shall intentionally deliver to a Registering Officer in any proceeding under Section 19 or 21 a false copy or translation of a document, or a false copy of a map or plan, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for false personation.

XCIII. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or Commission to be issued, or does any other act in

any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for abetment of offences under this Act.

XCIV. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Registering Officer may institute prosecutions.

XCV. A prosecution for any offence under this Act coming to the knowledge of a Registering Officer in his official capacity may be instituted by the Registrar General, the Branch Registrar General, the Registrar or (with the sanction of the Registrar to whom he is subordinate) the Sub-Registrar in whose Territories, District, or Sub-District, as the case may be, the offence has been committed. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate or subordinate Magistrate of the first class; and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure.

Registering Officers to be deemed Public Servants.

XCVI. Every Registering Officer appointed under this Act shall be deemed a Public Servant within the meaning of the Indian Penal Code, and every person shall be legally bound to furnish information to such Registering Officer when required by him to do so. And in Section 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

References to Act XVI. of 1864 to be read as if made to this Act.

XCVII. All references to the said Act XVI. of 1864 in Acts passed previous to the date of this Act coming into operation shall be read as if made to this Act.

Power to extend Act to other Territories.

XCVIII. This Act may be extended to any other part of British India by an order of the local Government, to be notified in the Official Gazette; and such order may, at any time before such extension shall come into operation, be altered or cancelled.

Repeal of Rules relating to registration in certain Territories.

XCIX. From the date on which this Act shall be extended as hereinbefore provided to any part of British India in which the Acts hereinbefore mentioned are not in force, all Rules and Regulations relating to the registration of assurances in force in such part of British India shall cease to have effect, except as regards documents duly registered under any of such Rules or Regulations.

Time for registering instruments executed in such Territories before extension of this Act.

C. Anything contained in this Act to the contrary notwithstanding, every instrument of the kinds mentioned in Sections 17 and 18, which shall have been executed in any such part of British India before the date on which this Act shall come into operation therein, shall be accepted for registration if it be duly presented for registration within twelve months from such date.

Recognition, in Territories in which Act XVI. of 1864 is not in force, for three months, of powers of attorney not duly executed.

CI. For three months after the date on which this Act shall come into operation in any part of India in which Act XVI. of 1864 has not come into operation, a power of attorney not duly executed according to the provisions of Section 35, anything therein contained to the contrary notwithstanding, shall be

deemed to have been duly executed under the provisions of the same Section, if the Registering Officer shall be satisfied that it has been executed in good faith, and if a power of attorney attested under the provisions of this Act cannot be obtained within the period during which the document sought to be registered can, under such provisions, be accepted for registration.

CII. *Repealed by the Repealing Act XIV.*, 1870.

SCHEDULE.

Form of Petition under Section 84.

Stamp eight annas.

To the Judge of the District Court of————————.
The————day of———18 .
The petition of A. B. of————————.

SHEWETH :—

1. That by an instrument dated the———day of————and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on the——day of——— 18 .

3. That the property to which such instrument relates is situate in the Sub-District of the Sub-Registrar of————————and in the District of————————.

4. That on the————day of————your petitioner presented the said instrument for registration under "The Indian Registration Act, 1866," in the Office of the said Sub-Registrar, and on such presentation the said C. D. appeared personally before the said Sub-Registrar, and admitted the execution of the said instrument [*or* and falsely denied the execution of the said instrument].

5. That the said C. D. is personally known to the said Sub-Registrar [*or* adduced evidence that he was the person he represented himself to be, *or* That your petitioner adduced evidence that the said C. D. was the person he represented himself to be].

6. That the said Sub-Registrar thereupon made an order of refusal, dated the———day of————18 , to register the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

7. That your petitioner on the————day of———appealed to the Registrar of————————against such order.

8. That the said Registrar thereupon made an order of refusal, dated the——— day of————————to direct the registration of the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient, [*or* That your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so].

Your petitioner therefore prays that your Honor will order the said Sub-Registrar to register the said instrument.

A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT No. XXI. OF 1866.

1. Short Title.
2. Commencement of Act.
3. Interpretation of terms. "Native Husband." "Native wife." "Native Law." "Month" and "Year." "High Court." Number.
4. Convert deserted by his wife on religious grounds may sue for conjugal society.
5. Convert deserted by her husband on religious grounds may sue for conjugal society.
6. Court in which suit shall be brought.
7. Suit to be commenced by verified petition.
8. On service of petition, citation issued to respondent.
9. Form of citation.
10. Service of citation.
11. Procedure where respondent does not obey citation.
12. Points to be proved on appearance of petitioner.
13. First interrogation of respondent.
14. Interrogations by Judge may be public or private.
15. Procedure when female respondent refuses to cohabit with petitioner. Adjournment for a year. Interview.
16. Procedure on expiration of adjournment. Interrogation of respondent. Decree.
17. Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion. Proviso.
18. Decree if respondent so refuse in the case of an unconsummated marriage, either party being *impubes* at time of marriage.
19. Liberty to parties to marry again.
20. Judge may order Commission to issue for examination of exempted persons.
21. Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.
22. Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.
23. Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.
24. Revival of suit after such dismissal.
25. Petitioner's cruelty or adultery to bar the suit.
26. Male petitioner's cohabitation with one of several wives to bar the suit.
27. Dissolution of marriage not to affect status or rights of children.
28. Power of Court to award alimony.
29. No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.
30. Case to state necessary facts and documents, and suit to be stayed.
31. Case to be decided by three Judges.
32. High Court may refer case to Judge for additions or alterations.
33. High Court may decide questions raised, and Judge shall dispose of case accordingly.
34. Saving of Roman Catholic marriages.
35. Extent of Act.

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Preamble.

Whereas it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds, by their wives or husbands; It is enacted as follows:

Short Title.

I. This Act may by cited as "The Native Converts' Marriage Dissolution Act, 1866."

Commencement of Act.

II. This Act shall commence and take effect on and from the 1st day of May, 1866.

III. In this Act—

Interpretation of terms.

"Native Husband."

"Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan, nor a Jew:

"Native Wife."

"Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan, nor a Jewess:

"Native Law."

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Muhammadans, and Jews:

"Month" and "year."

"Month" and "year" shall respectively mean month and year according to the British calendar:

"High Court."

"High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends

And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

IV. If a Native Husband change his religion for Christianity, and if in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by his wife on religious grounds may sue for conjugal society.

V. If a Native Wife change her religion for Christianity, and if in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

VI. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of judicature, the suit shall be commenced in such Court; otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Court in which suit shall be brought.

VII. The suit shall be commenced by a petition in the form in the first Schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition may be amended by permission of the Court.

Suit to be commenced by verified petition.

VIII. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

On service of petition citation issued to respondent.

IX. In ordinary cases the citation shall be in the form in the second Schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third Schedule to this Act, or as near thereto as the circumstances of the case will allow.

Form of citation.

X. A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Service of citation.

XI. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 174 of the Indian Penal Code.

Procedure where respondent does not obey citation.

XII. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved:—

Points to be proved on appearance of petitioner.

(1.) The identity of the parties:

(2.) The marriage between the petitioner and the respondent:

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:

(4.) The desertion or repudiation of the petitioner by the respondent:

(5.) That such desertion or repudiation was in consequence of the petitioner's change of religion;

(6.) And that such desertion or repudiation had continued for six months immediately before the commencement of the suit.

First interrogation of respondent.

XIII. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such Commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

XIV. Every interrogations mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

Procedure when female respondent refuses to cohabit with petitioner.

XV. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Adjournment for a year.

Interview.

Procedure on expiration of adjournment.

XVI. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in the twelfth and this Section of this Act shall be proved to the satisfaction of the Judge, and if the respondent, on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Interrogation of respondent.

Decree.

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

XVII. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitionor shall again appear in Court; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to co-habit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid: Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

Proviso.

Decree if respondent so refuse in the case of an unconsummated marriage, either party being impubes at time of marriage.

XVIII. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated; and if, in answer to the interrogatories made pursuant to the thirteenth Section of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

Liberty to parties to marry again.

XIX. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding: Provided, always, that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

Judge may order Commission to issue for examination of exempted persons.

XX. In suits instituted under this Act, the Judge shall order a Commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable, apply to Commissions issued under this Section.

Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.

XXI. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

XXII. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

XXIII. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are co-habiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Revival of suit after such dismissal.

XIV. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview, and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth Section of this Act.

Petitioner's cruelty or adultery to bar the suit.

XV. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Male petitioner's cohabitation with one of several wives to bar the suit.

XVI. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

Dissolution of marriage not to affect status or rights of children.

XXVII. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the Native law applicable to them, by way of maintenance, inheritance, or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to Court to award alimony.

XXVIII. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute

or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.

XXIX. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

Case to state necessary facts and documents, and suit to be stayed.

XXX. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

Case to be decided by three Judges.

XXXI. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the Presidency Towns; and the petitioner and respondent may appear and be heard in the High Court in person or by Advocate or Vakeel.

High Court may refer case to Judge for additions or alterations.

XXXII. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

High Court may decide question raised, and Judge shall dispose of case accordingly.

XXXIII. It shall be lawful for the High Court upon the hearing of any such case to decide the questions raised thereby and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

Saving of Roman Catholic marriages.

XXXIV. Nothing contained in this Act or in Acts XXV. of 1854 and V. of 1865 shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies, and customs of the Roman Catholic Church; and no Clergyman of such Church shall be liable to any suit or penalty under the provisions of either of the two Acts last hereinbefore mentioned, for solemnizing any such marriage.

Extent of Act.

XXXV. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 and 22 Vict., chap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement, to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

Form of Petition.

Stamp Rs. two.

To the Judge of the Civil Court of———

The————day of————18 .

SHEWETH :—

The petition of A. B. of————

1. That your petitioner was born on or about the———day of————18—.

2. That your petitioner was on the————day of————in the year 18———. lawfully married to C. D. at————

3. That the said C. D. is now of the age of———years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at——— aforesaid until the———day of————18 .

5. That previous to the——day of————18——— your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of————

6. That on the———day of———18——[*at least six months prior to the date of the petition*], the said C. D. deserted your petitioner, and has not since resumed cohabitation with him.

7. That such desertion was in consequence of your petitioner's said change of religion.

8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honor will order the said C. D. to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C. D. of———

Whereas A. B. of————claiming to have been lawfully married to you, the said C. D. has filed his [*or* her] petition against you in the Civil Court of———— alleging that you, the said C. D., have deserted him [*or* her] for six months in conse-

quence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved: Now this is to command you that, at the expiration of——days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the——day of——18 .

(Signed) E. F.,
Judge of the Civil Court of,

Indorsement to be made after service.

This citation was duly served by G H. on the within named C. D. of——at——on the——day of——18—.

(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of respondent exempt from appearance in Court.

To C. D. of——

Whereas A. B. of——claiming to have been lawfully married to you, the said C. D. has filled his [*or* her] petition against you in the Civil Court of——alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you cansent to cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved. Now this is to command you that, at the expiration of——days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer, and do answer such interrogatories as may be put to you by Commissioners duly authorised in that behalf under a Commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the——day of——18—.

(Signed) E. F.,
Judge of the Civil Court of——

Indorsement to be made after service.

This citation was duly served by G. H. on the within-named C. D. of——at——on the——day of——18—.

(Signed) G. H.

ACT No. XXII. OF 1866.

Preamble.

Whereas it is expedient to extend the provisions of the Indian Marriage Act, 1865, to the Christian British subjects of Her Majesty within the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry, and Aurungabad; It is enacted as follows:

Indian Marriage Act 1865, to extend to Christian British subjects in the Hyderabad Assigned Districts, &c.

I. The Indian Marriage Act, 1865, shall, so far only as regards Christian British subjects of Her Majesty, extend to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry, and Aurungabad.

ACT No. XXIII. OF 1866.

An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

Preamble.

Whereas the twenty-second Section of the Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December, 1865, is as follows:—"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have criminal jurisdiction at the date of the publication of these presents:" And whereas it is expedient to correct the two clerical errors in such Section which are hereinbefore indicated by italics; It is hereby enacted as follows:

Clause substituted for Section 22 of revised Letters Patent of High Court of Bombay.

I. In lieu of the said recited Section, the following shall be substituted:

"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents."

ACT No. XXIV. OF 1866.

1. Interpretation Clause. "High Court." "Lieutenant-Governor." "Magistrate." "Registrar." Number Gender.
2. Charge to be delivered with record of preliminary enquiry.
3. High Court to consider, and if it will, to amend, alter, or add to the charge. Charge with amendments, alterations, or additions (if any) to be recorded.
4. Accused to have copies of examinations.
5. Effect of charge.
6. High Court may order an unsustainable charge not to be proceeded with. Effect of such order.
7. Places of holding sittings.
8. High Court may order European British subjects committed in certain districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.
9. Proceedure on direction of High Court as to trial.
10. Trials under Section 2 to be by Jury.
11. Summoning of Jurors to serve on trials. Military men not exempt.
12. Jury for trial of European British subjects.
13. Number of Jury requisite for verdict of guilty.
14. Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court.
15. Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court.
16. Power to reserve for High Court any question of law or evidence. Procedure where no such question is reserved.
17. Save as aforesaid, Code of Criminal Procedure to apply to Juries, trials, sentences, and executions under this Act.
18. Parts of Act VIII. of 1859 suspended in High Court. High Court to record its judgments and orders as it shall by rule direct.
19. Court may fix time for appealing from judgment, &c., of its own Judges or Division Courts.
20. Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained
21. Court in the exercise of its original civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney. Proviso.
22. Testamentary and Intestate Procedure.
23. Short Title.

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

Preamble.

Whereas it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its Original Criminal, and its Civil, Intestate and Testamentary Jurisdictions; It is hereby enacted as follows:

Interpretation Clause.

I. In this Act,—unless there be something repugnant in the subject or the context—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature for the North-Western Provinces of the Presidency of Fort William:

"Lieutenant-Governor."

"Lieutenant-Governor" denotes the Lieutenant-Governor for the time being of the said Provinces:

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure:

"Registrar."

"Registrar" includes, besides such Officer, any Officer specially appointed by the Lieutenant-Governor to discharge the functions given by this Act to the Registrar:

Number Gender.

Words in the singular include the plural, and words denoting the masculine gender include females.

Charge to be delivered with record of preliminary enquiry.

II. Any Justice of the Peace or Magistrate within or without the said Provinces, before whom any European British subject shall be brought for an offence committed within the said Provinces, or for an offence which under or by virtue of any law or order made or issued by the Governor-General of India in Council shall have been made triable by the High Court, and who shall commit or hold to bail such person for trial shall, together with the record of the preliminary enquiry and all recognizances and other documents, and any weapon or article of property connected with the case, and translations into English of any writings not in that language, deliver to the Registrar of the High Court a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

High Court to consider, and, if it will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

III. The High Court, or any Officer specially authorized by the High Court in this behalf, shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, (if any,) shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

IV. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

V. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

High Court may order an unsustainable

VI. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the commencement of the trial of the person charged

Judge or Judges of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the district or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision of the High Court be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question is reserved.

XVII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the High Court, acting in the exercise of its original criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

Save as aforesaid, Code of Criminal Procedure to apply to Juries, trials, sentences, and executions under this Act.

XVIII. The operation of the following Sections of Act VIII. of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

Parts of Act VIII. of 1859 suspended in High Court.

High Court to record its judgments and orders as it shall by rule direct.

XIX. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments, orders, or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

XX. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the original civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs, and as to so much thereof as relates to the costs, that the same may be executed as soon as the amount of the costs shall be ascertained by taxation. The High Court may appoint the Registrar to be Taxing Officer.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

Court in the exercise of its original civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

XXI. Whenever anything is directed by the said Act VIII. of 1859 to be done by or through a Pleader, the High Court, or any Judge thereof in the exercise of its original civil jurisdiction, may authorize such act to be done by or through an Attorney-at-law of the High Court: Provided that no Attorney shall be authorized under the provisions of this Section to plead in the High Court or in any Division Court for any other person.

Testamentary and Intestate Procedure.

XXII. The procedure in all cases which shall be brought before the High Court in the exercise of its original Testamentary and Intestate jurisdiction, shall be regulated as far as the circumstances of the case will admit, by the rules of procedure laid down in the Indian Succession Act, 1865, whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Short Title.

XXIII. This Act shall be called "The High Court (North-Western Provinces) Act, 1866."

ACT No. XXV. OF 1866.*

1. Monies deposited in High Courts and Supreme Court Straits' Settlement, and unclaimed for [illegible] years, to be transferred to Government.
2. Proceeds of estates administered under order of Supreme Court Straits' Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.
3. Transfer not to be made pending suits.
4. Re-payment on subsequent establishment of claim.

An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras, and Bombay, and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.

Preamble.

Whereas it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras, and Bombay, and in the Supreme Court of the Straits' Settlement, in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras, and Bombay, respectively, and now or hereafter appearing to have been [illegible] for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period should be transferred and paid to the Government of India for the general purposes of Government: And whereas it is also expedient that the net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books or accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the purposes aforesaid; It is hereby enacted as follows:

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* So much of this Act as relates to the Administrator General of Bengal is repealed by Act XXIV. 1867, Section 2, and Schedule.

Monies deposited in High Courts and Supreme Court Straits' Settlement, and unclaimed for twenty years, to be transferred to Government.

I. All securities and sums of money deposited in the said High Courts or Supreme Court of the Straits' Settlement or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras, and Bombay, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

Proceeds of estates administered under order of Supreme Court Straits' Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.

II. The net proceeds of all estates administered under the order of the said Supreme Court of the Straits' Settlement or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to [illegible] custody for a period of fif[illegible] without any claim thereto h[illegible] allowed during that period, s[illegible] paid to the Government of [illegible] purposes of Government.

Transfer not to be made pending suits.

III. Nothing in this Act shall authorize a[illegible] of any such securities, sums [illegible] as aforesaid, pending any sui[illegible] which shall hereafter be instituted in respect ther[illegible]

Re-payment on subsequent establishment of claim.

* IV. If any claim shall hereafter be m[illegible] securities, monies, or proceeds [illegible] ferred and paid to the Gove[illegible] the provisions of this Act, a[illegible] in the case of securities and monies transferred a[illegible] Section of this Act, be established to the satisfac[illegible] or the Supreme Court, as the case may be, from [illegible] have been made, and, in the case of proceed[illegible] under the second Section of this Act by order of the Supreme Court of the Straits' Settlement, be established to the satisfaction of the same Court, and, in the case of proceeds transferred and paid under the same Section by the Administrator General of Bengal for the time being, be established to the satisfaction of the said Administrator General and the Accountant General to the Government of Bengal respectively, the Government of India shall pay to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall [illegible]e to the claimant. If any such last-mentioned claim [illegible]tablished to the satisfaction of the said Administrator [illegible]ccountant General, the claimant may apply by petition [illegible]urt of Judicature at Fort William, on its original side [illegible]overnment of India and the Administrator General of [illegible]ime being, and after taking evidence, either orally or on [illegible]mmary way, as the said Court shall think fit, the said [illegible]e such order on the petititon for the payment of such [illegible]rincipal sum as justice shall require, and such order shall [illegible]ll parties to the suit.

Courts at the Presidency Towns have been empowered, by Act No. [illegible] with the costs of petitions under this Section.